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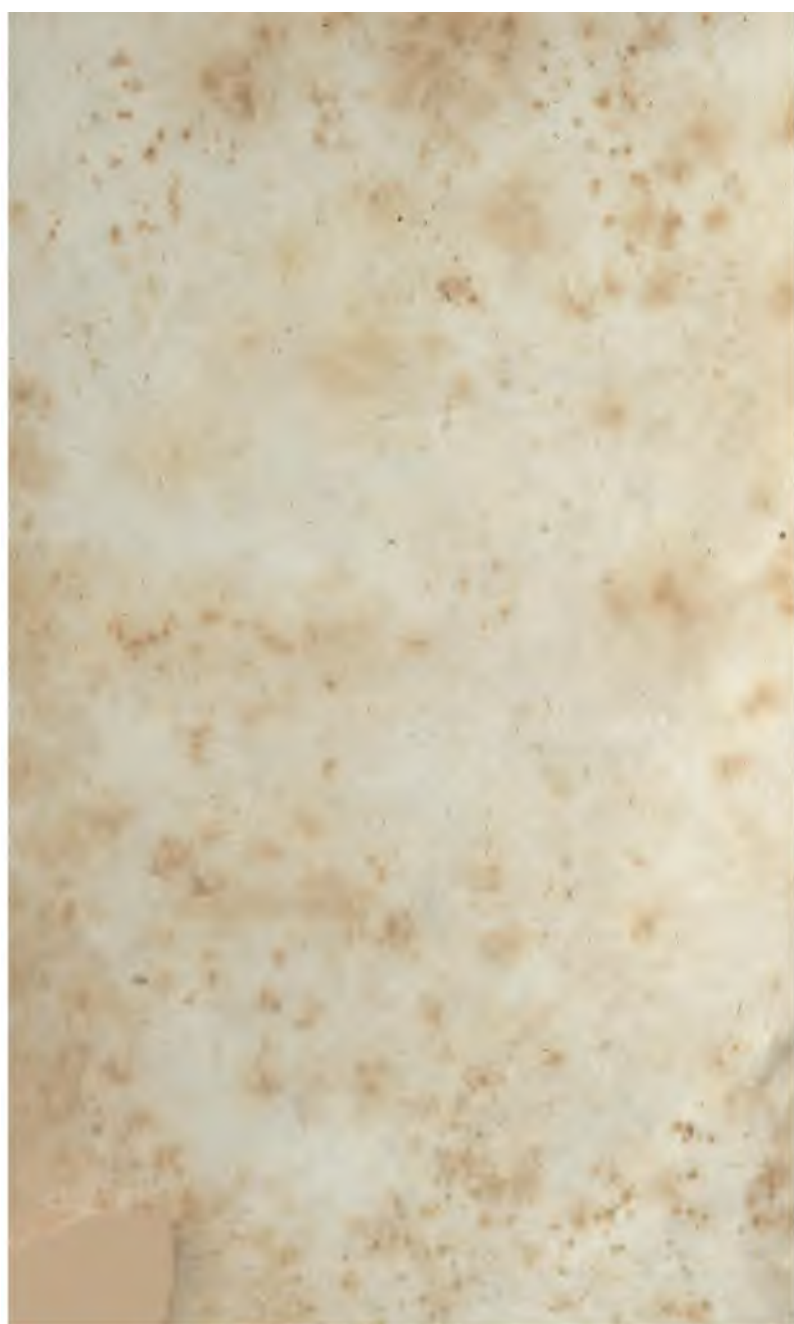
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A  
DIGEST  
OF THE  
COMMON SCHOOL SYSTEM  
OF THE  
STATE OF NEW-YORK:

TOGETHER WITH THE

FORMS, INSTRUCTIONS, AND DECISIONS OF THE SUPERINTENDENT  
AN ABSTRACT OF THE VARIOUS LOCAL PROVISIONS APPLICABLE  
TO THE SEVERAL CITIES &c.; AND A SKETCH OF THE ORIGIN  
PROGRESS, AND PRESENT CONDITION OF THE SYSTEM.

*Received*  
By S. S. RANDALL,

GENERAL DEPUTY SUPERINTENDENT OF COMMON SCHOOLS

ALBANY:

PRINTED BY C. VAN BENTHUYSEN & Co.

1844.

THOMAS  
COMMON SCHOOL SYSTEM  
THE  
STATE OF NEW-YORK

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[Entered according to the Act of Congress, in the year 1844, by  
S. S. RANDALL, in the Clerk's Office of the District Court of the  
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## PREFACE.

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IN submitting the following work to the inhabitants and officers of school districts, the various town and county officers charged with the local administration of the common school system in its several departments, and the public generally, the compiler has been actuated by an earnest desire to diffuse as widely as possible, a more thorough and accurate knowledge of the history and details of that system than has hitherto appeared. Having been connected with the department of common schools for the past seven years, during which period three successive Superintendents have been in office, and the system has undergone numerous important modifications, the necessary materials for a complete digest of its various provisions, as well as for the requisite adaptation of the numerous expositions, decisions, and instructions of the department, to the present state of the law, were probably more fully within his reach than that of any other individual.

The volume of Laws and Decisions prepared and published by Gen. Dix in 1837, however valuable for its intrinsic interest, and for its clear and lucid exposition of the fundamental principles of our system of public instruction, has become to a very great extent inapplicable to the existing details of that system; and where relied upon as a guide, by officers of districts, of towns and counties, must necessarily embarrass and mislead. The compiler of the present work has therefore deemed it his duty to obviate this result so far as may be in his power, by giving first, a general abstract of the existing provisions of law in reference to the powers, duties and liabilities of each class of officers connected with the administration of the system, and of the inhabitants of the several school districts; and secondly, a digested view under each head, of the various instructions, expositions, and decisions of the department, or rather of the *principles* of such instructions and decisions, in their application to the law as it now stands: followed by a condensed abstract of the various local provisions applicable to the several cities and larger towns.

A historical sketch of the origin and progress of the system from his inception to the present period, accompanied by a brief exposition of its present condition, has been annexed to the work, with the design of rendering it more acceptable as well to our own citizens as to those of other portions of the Union, who may feel an interest in tracing the gradual advancement of our legislation on this important subject, and in ascertaining the prominent features of our system, as moulded by the successive improvements consequent upon an experience of nearly forty years.

The importance of an uniform and enlightened administration of a system embracing so great a variety of interests and forming so material an ingredient in the intellectual, moral, and social civilization of the community, has not been one of the least among the considerations which have led to the publication of this work: and if through its means any facilities shall have been afforded for the accomplishment of this desirable result, the time and pains spent in its preparation will not have been regretted. That it is free from imperfections and errors it would be presumptuous to assert; but in commending it to those for whose use it is specially designed, and to the friends of popular education generally, the compiler can accompany it with the assurance that no efforts on his part have been spared to render it worthy of their attention and regard

ALBANY, *May*, 1844.

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SECRETARY'S OFFICE, }  
DEPARTMENT OF COMMON SCHOOLS. }  
*Albany, May 3, 1844.*

Having examined the following "Digest of the Common School System of the State of New York," I take pleasure in saying that it is a full and correct exposition of that system; and entitled to the confidence of officers and inhabitants of school districts, Town and County Superintendents of common schools, and others interested in the cause of popular education.

S. YOUNG,  
*Sup't of Common Schools.*

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## INTRODUCTION.

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### ORIGIN, PROGRESS, AND PRESENT CONDITION OF THE COMMON SCHOOL SYSTEM OF NEW-YORK.

At the first meeting of the state legislature after the adoption of the Constitution, the governor, GEO. CLINTON, called the attention of that body to the subject of education. The following is an extract from his speech:

"Neglect of the education of youth is one of the evils consequent upon war. Perhaps there is scarce any thing more worthy your attention than the revival and encouragement of seminaries of learning; and nothing by which we can more satisfactorily express our gratitude to the Supreme Being for his past favors; since piety and virtue are generally the offspring of an enlightened understanding."

In this year, the act incorporating the Regents of the University was passed.

In 1789 an act was passed, requiring the surveyor-general, to set apart two lots in each township, of the public land thereafter to be surveyed, for gospel and school purposes.

The following is an extract from the report of the Regents of the University, for 1793:

"On this occasion we cannot help suggesting to the legislature the numerous advantages which we conceive would accrue to the citizens in general, from the institution of schools in various parts of the state, for the purpose of instructing children in the lower branches of education, such as reading their native language with propriety, and so much of writing and arithmetic, as to enable them when they come forward into active life, to transact with accuracy and dispatch, the business arising from their daily intercourse with each other. The mode of accomplishing this desirable object, we respectfully submit to the wisdom of the legislature.

"The attention which the legislature has evinced to promote literature, by the liberal provision heretofore made, encourages with all deference, to suggest the propriety of rendering it permanent by setting apart for that salutary purpose some of the unappropriated lands. The value of these will be enhanced by the increase of population. The state will thus never want the means of promoting useful science; and will thereby secure the rational happiness, and fix the liberty of the people on the most permanent basis—that of knowledge and virtue."

At the opening of the session of the legislature in 1795, Gov. Clinton thus again alludes to the subject:

"While it is evident that the general establishment and liberal endowment of academies are highly to be commended, and are attended with the most beneficial consequences, yet it cannot be denied that they are principally confined to the children of the opulent, and that a great proportion of the community is excluded from their immediate advantages. The establishment of common schools throughout the state, is happily calculated to remedy this inconvenience, and will therefore engage your early and decided consideration."

On the 9th of April, 1795, the "Act for the encouragement of schools" was passed, by which £20,000 (\$50,000) were annually appropriated for five years, "for the purpose of encouraging and maintaining schools in the several cities and towns in this state, in which the children of the inhabitants residing in the state, shall be instructed in the English language, or be taught English grammar, arithmetic, mathematics, and such other branches of knowledge as are most useful and necessary to complete a good English education." This sum was at first apportioned to the several counties according to their representation in the legislature, and afterwards according to the number of electors for members of assembly; and to the several towns according to the number of taxable inhabitants of each. The boards of supervisors were *required* to raise by tax upon each town, a sum equal to one-half of that appropriated by the state, to be applied in like manner. While this bill was under discussion in the assembly, a motion to add a proviso, "that no town after receiving for one year its proportion of the moneys appropriated by the act, shall be entitled in any year thereafter to receive its proportion of the same, unless the freeholders and inhabitants of such town, should, at their next preceding town-meeting, have voted a sum for the use of schools in such town, equal to at least one-half of the proportion of the moneys to which such town shall have been entitled by this act in the preceding year; and in case such sum shall not have been voted to be raised as aforesaid by any town, the supervisors of the county should apportion the moneys to which such town would otherwise have been entitled, among the other towns in such county, which should have voted for such sum" was rejected, by a vote of 30 to 27. The adoption of this proviso, would have left it discretionary with the inhabitants of any town to comply with the requisitions of the act, and thereby entitle itself to receive its proportion of the public money; a measure subsequently resorted to, as will hereafter be seen, but speedily abandoned on experience of its effects.

The prominent features of the act of 1795, were the following: Not less than three, nor more than seven commissioners,

were annually to be chosen by the electors of the respective towns, to whom were to be committed the supervision and direction of the schools, and the apportionment of public money among the several districts. The inhabitants residing in different sections of each town, were authorized "to associate together for the purpose of procuring good and sufficient school-masters, and for erecting and maintaining schools in such and so many parts of the town where they may reside, as shall be most convenient," and to appoint two or more trustees, who were directed to "confer with the commissioners concerning the qualifications of the master or masters that they may have employed, or may intend to employ in their schools; and concerning every other matter which may relate to the welfare of their school, or to the propriety of erecting or maintaining the same, to the intent that they may obtain the determination of the said commissioners whether the said school will be entitled to a part of the moneys allotted to or raised in that town by virtue of this act, and whether the abilities and moral character of the master or masters employed, or intended to be employed therein, are such as will meet with their approbation." The share of public money to be paid to each district, was to be apportioned by the commissioners, "according to the number of days for which instruction shall appear, by the annual report of the trustees, to have been given in each of the said schools, in such manner that the school in which the greater number of days of instruction shall appear to have been given, shall have a proportionably larger sum. And if it shall at any time appear to the said commissioners, that the abilities or moral character of the master or masters of any schools, are not such that they ought to be entrusted with the education of the youth, or that any of the branches of learning taught in any school, are not such as are intended to receive encouragement from the moneys appropriated by this act, the said commissioners shall notify in writing the said trustees of such school thereof; and to the time of such notification, and no longer, shall any allowance be made to such school, unless the same thereafter be conducted to the approbation of the said commissioners." The commissioners were required to give to the trustees of each district, an order on the county treasurer for the sum to which the district was entitled. Provisions were also made for annual returns from the several districts, towns and counties. An abstract of these returns, from sixteen out of the twenty-three counties of the state, for the year 1798, shows a total of 1,352 schools, organized according to the act, in which 59,660 children were taught.

At the opening of the session of the Legislature in 1800, Gov. JAY called the attention of both houses to the subject of common schools, in the following language:

"Among other objects which will present themselves to you, there is one which I earnestly recommend to your notice and patronage. I mean our institutions for the education of youth. The importance of common schools is best estimated by the good effects of them, where they most abound and are the best regulated."

On the 25th of March of the same year, the assembly, by a vote of fifty-seven to thirty-six, adopted the following resolution, offered by Mr. Comstock of Saratoga:

"Resolved, That the 'Act for the encouragement of schools,' passed the 9th day of April, 1795, ought to be revised and amended; and that out of the annual revenue arising to this state from its stock and other funds, the sum of \$50,000 be annually appropriated for the encouragement of schools, for the term of five years."

On the 3d of April, subsequently, a clause to this effect was inserted in the annual supply bill, on Mr. Comstock's motion, by a vote of fifty-one to thirty-five. The senate, however, by a vote of nineteen to sixteen, struck out the clause. The house, on the return of the bill, at first refused to concur with the senate in this amendment, by a vote of forty-two to forty-one; but subsequently reconsidered its vote, and assented to the amendment, on the last day but one of the session.

By an act passed on the 3d of April, 1801, the sum of \$100,000 was directed to be raised by lottery, of which one-half was ordered to be paid into the treasury for the use of common schools; leaving to future legislatures the discretion of making such application of it as they might judge most conducive to the end in view. In order to promote so laudable an object, the legislature of 1803, by an act passed on the 6th of April, directed the comptroller to invest in good real estate, all such sums of money as had been or should thereafter be received from the proceeds of each lottery, for the term of two years.

In 1802, the governor (Geo. CLINTON,) again called the attention of the legislature to the subject of common schools. He observes, "The system of common schools having been discontinued, and the advantage to morals, religion, liberty and good government, arising from the general diffusion of knowledge being universally admitted, permit me to recommend this subject to your deliberate attention. The failure of one experiment for the attainment of an important object, ought not to discourage other attempts." No legislative action, however, in reference to the subject, was had during the session of that year.

In 1803, Gov. Clinton renewed his recommendation in the following energetic terms: "The establishment of common schools has, at different times, engaged the attention of the legislature; but although its importance is generally acknowledged, a diver-

sity of sentiment respecting the best means, has hitherto prevented the accomplishment of the object. The diffusion of knowledge is so essential to the promotion of virtue and the preservation of liberty, as to render arguments unnecessary to excite you to a perseverance in this laudable pursuit. Permit me only to observe, that education, by correcting the morals and improving the manners, tends to prevent those evils in society which are beyond the sphere of legislation."

On the 21st of February of that year, Mr. Peck, of Otsego, from the joint committee of both houses on this portion of the governor's speech, reported a bill authorizing the several towns to organize their schools, and to raise money to support the same. No definite action, however, took place upon it during the session of that year.

In 1804, the governor again called the attention of the legislature to the subject. On the 3d of March, in that year, Mr. Peck, from the committee on that portion of the speech, again made a favorable report, accompanied by a bill, which, however, shared the fate of its predecessor.

At the extra session of the legislature, in November, 1804, Gov. LEWIS brought the subject before that body, in the following language:

"I cannot conclude, gentlemen, without calling your attention to a subject which my worthy and highly respected predecessor in office had much at heart, and frequently, I believe, presented to your view—the encouragement of literature. In a government, resting on public opinion, and deriving its chief support from the affections of the people, religion and morality cannot be too sedulously inculcated. To them, science is an handmaid; ignorance, the worst of enemies. Literary information should then be placed within the reach of every description of citizens, and poverty should not be permitted to obstruct the path to the fane of knowledge. Common schools, under the guidance of respectable teachers, should be established in every village, and the indigent be educated at the public expense. The higher seminaries also, should receive every patronage and support within the means of enlightened legislators. Learning would thus flourish, and vice be more effectually restrained than by volumes of penal statutes."

On the 4th of February, 1805, Gov. Lewis transmitted a special message to the legislature in reference to this subject, in which he recommended the application of all the state lands for the benefit of colleges and schools; the whole fund and entire management of the system to be confided to the Regents of the University, under such regulations as the legislature might prescribe; the Regents to have the power of appointing three trustees for each district; who should be authorized to locate the sites for school houses, and to erect such houses wherever ne-

cessary, employ teachers, apply the funds of the district, and levy taxes on the inhabitants, for such further sums as might be required for the support of the school and the education of indigent children. None of these suggestions, however, with the exception of the first, seem to have met with any favor at the hands of the legislature.

On the 2d of April, the legislature passed an act providing that the nett proceeds of 500,000 acres of the vacant and unappropriated lands of the people of this state, which should be first thereafter sold by the surveyor-general, should be appropriated as a permanent fund for the support of common schools; the avails to be safely invested until the interest should amount to \$50,000; when an annual distribution of that amount should be made to the several school districts. This act laid the foundation of the present fund for the support of common schools.

By the act to incorporate the Merchants' Bank in the city of New-York, passed the same year, the state reserved the right to subscribe for three thousand shares of the capital stock of that institution, which, together with the accruing interest and dividends, were appropriated as a fund for the support of common schools, to be applied in such manner as the legislature should from time to time direct.

By acts passed March 13, 1807, and April 8, 1808, the comptroller was authorized to invest such moneys, together with the funds arising from the proceeds of the lotteries authorized by the act of 1803, in the purchase of additional stock of the Merchants' Bank, and to loan the residue of the fund.

No determinate action on the part of the legislature, in reference to the establishment of a system of common schools, was had during the years, 1806-7-8-9 or 10. At the opening of the session in the latter year, Gov. TOMPKINS thus alludes to the subject.

"I cannot omit this occasion of inviting your attention to the means of instruction for the rising generation. To enable them to perceive and duly to estimate their rights, to inculcate correct principles and habits of morality and religion, and to render them useful citizens, a competent provision for their education is all-essential. The fund appropriated for common schools already produces an income of about \$26,000 annually, and is daily becoming more productive. It rests with the legislature to determine whether the resources of the state will justify a further augmentation of that appropriation, as well as to adopt such plan for its application and distribution, as shall appear best calculated to promote the important object for which it was originally designed."

On the 23th of February, of that year, the comptroller, in obedience to a resolution of the legislature, calling upon him for information as to the condition of the school fund, reported

that the amount of receipts into the treasury up to that period, of moneys belonging to the fund, was \$161,115.69, of which \$29,100 had been invested in the capital stock of the Merchants' Bank, \$114,600 loaned in pursuance of law, and the residue remained in the treasury.

In 1811, Gov. Tompkins again called the attention of the legislature to this subject; and a law was passed, authorizing the appointment by the governor, of five commissioners, to report a system for the organization and establishment of common schools. The commissioners appointed under this act were Jedediah Peck, John Murray, Jr., Samuel Russell, Roger Skinner, and Samuel Macomb. On the 14th of February, 1812, they submitted a report, accompanied by the draft of a bill, comprising substantially the main features of our common school system, as it existed up to the year 1838. In the bill, as it originally passed, the electors of each town were authorized to determine at their annual town meeting, whether they would accept their shares of the money apportioned by the state, and direct the raising of an equal amount on their taxable property. So embarrassing, however, was the practical operation of this feature of the system, that on the recommendation of the superintendent, Gideon Hawley, Esq., it was stricken out; and each county required to raise by tax an amount equal to that apportioned by the state.

The following are extracts from the report of the commissioners:

"Perhaps there never will be presented to the legislature a subject of more importance than the establishment of common schools. Education, as the means of improving the moral and intellectual faculties, is, under all circumstances, a subject of the most imposing consideration. To rescue man from that state of degradation to which he is doomed, unless redeemed by education; to unfold his physical, intellectual, and moral powers; and to fit him for those high destinies which his Creator has prepared for him, cannot fail to excite the most ardent sensibility of the philosopher and philanthropist. A comparison of the savage that roams through the forest, with the enlightened inhabitant of a civilized country, would be a brief but impressive representation of the momentous importance of education.

"It were an easy task for the commissioners to show, that in proportion as every country has been enlightened by education, so has been its prosperity. Where the heads and hearts of men are generally cultivated and improved, virtue and wisdom must reign, and vice and ignorance must cease to prevail. Virtue and wisdom are the parents of private and public felicity: vice and ignorance, of private and public misery.



"If education be the cause of the advancement of other nations, it must be apparent to the most superficial observer of our peculiar political institutions, that it is essential, not to our prosperity only, but to the very existence of our government. Whatever may be the effect of education on a despotic or monarchical government, it is not absolutely indispensable to the existence of either. In a despotic government, the people have no agency whatever, either in the formation or in the execution of the laws. They are the mere slaves of arbitrary authority, holding their lives and property at the pleasure of uncontrolled caprice. As the will of the ruler is the supreme law; fear, slavish fear, on the part of the governed, is the principle of despotism. It will be perceived readily, that ignorance on the part of the people can present no barrier to the administration of such a government; and much less can it endanger its existence. In a monarchical government, the operation of fixed laws is intended to supersede the necessity of intelligence in the people. But in a government like ours, where the people is the sovereign power; where the will of the people is the law of the land; which will is openly and directly expressed; and where every act of the government may justly be called the act of the people; it is absolutely essential that that people be enlightened. They must possess both intelligence and virtue: intelligence to perceive what is right, and virtue to do what is right. Our republic, therefore, may justly be said to be founded on the intelligence and virtue of the people. For this reason, it is with much propriety that the enlightened Montesquieu has said, 'in a republic the whole force of education is required.'

"The commissioners think it unnecessary to represent in a stronger point of view, the importance and absolute necessity of education, as connected either with the cause of religion and morality, or with the prosperity and existence of our political institutions. As the people must receive the advantages of education, the inquiry naturally arises, how this end is to be attained. The expedient devised by the legislature, is the establishment of common schools; which being spread throughout the state and aided by its bounty, will bring improvement within the reach and power of the humblest citizen. This appears to be the best plan that can be devised to disseminate religion, morality, and learning throughout a whole country. All other methods, heretofore adopted, are partial in their operation and circumscribed in their effects. Academies and universities, understood in contradistinction to common schools, cannot be considered as operating impartially and indiscriminately, as regards the country at large. The advantages of the first are confined to the particular districts in which they are established; and the second, from causes apparent to every one, are devoted almost exclusively to the rich. In a free government, where political

equality is established, and where the road to preferment is open to all, there is a natural stimulus to education; and accordingly we find it generally resorted to, unless some great local impediments interfere. In populous cities, and the parts of the country thickly settled, schools are generally established by individual exertion. In these cases, the means of education are facilitated, as the expenses of schools are divided among a great many. It is in the remote and thinly populated parts of the state, where the inhabitants are scattered over a large extent, that education stands greatly in need of encouragement. The people here, living far from each other, makes it difficult so to establish schools, as to render them convenient or accessible to all. Every family, therefore, must either educate its own children, or the children must forego the advantages of education.

“These inconveniences can be remedied best by the establishment of common schools, under the direction and patronage of the state. In these schools should be taught, at least, those branches of education which are indispensably necessary to every person in his intercourse with the world, and to the performance of his duty as a useful citizen. Reading, writing, arithmetic, and the principles of morality, are essential to every person, however humble his situation in life. Without the first, it is impossible to receive those lessons of morality, which are inculcated in the writings of the learned and pious; nor is it possible to become acquainted with our political constitutions and laws; nor to decide those great political questions, which ultimately are referred to the intelligence of the people. Writing and arithmetic are indispensable in the management of one's private affairs, and to facilitate one's commerce with the world. Morality and religion are the foundation of all that is truly great and good, and are consequently of primary importance. A person provided with these acquisitions, is enabled to pass through the world respectably and successfully. If, however, it be his intention to become acquainted with the higher branches of science, the academies and universities established in different parts of the state are open to him. In this manner, education in all its stages is offered to the citizens generally.

“In devising a plan for the organization and establishment of common schools, the commissioners have proceeded with great care and deliberation. To frame a system which must directly affect every citizen in the state, and so to regulate it, as that it shall obviate individual and local discontent, and yet be generally beneficial, is a task, at once perplexing and arduous. To avoid the imputation of local partiality, and to devise a plan, operating with equal mildness and advantage, has been the object of the commissioners. To effect this end, they have consulted the experience, of others, and resorted to every probable

source of intelligence. From neighboring states, where common school systems are established by law, they have derived much important information. This information is doubly valuable, as it is the result of long and actual experience. The commissioners by closely examining the rise and progress of those systems, have been able to obviate many imperfections, otherwise inseparable from the novelty of the establishment, and to discover the means by which they have gradually risen to their present condition.

"The outlines of the plan suggested by the commissioners are briefly these: that the several towns in the state be divided into school districts, by three commissioners, elected by the citizens qualified to vote for town officers: that three trustees be elected in each district, to whom shall be confided the care and superintendence of the school to be established therein: that the interest of the school fund be divided among the different counties and towns, according to their respective population, as ascertained by the successive census of the United States: that the proportions received by the respective towns be subdivided among the districts into which such towns shall be divided, according to the number of children in each, between the ages of five and fifteen years: that each town raise by tax annually as much money as it shall have received from the school fund: that the gross amount of moneys received from the state and raised by the towns, be appropriated exclusively to the payment of the wages of the teachers: and that the whole system be placed under the superintendence of an officer appointed by the Council of Appointment."

"Let us suppose that the school fund were arrived at that point where by law it is to be divided. There will then be \$50,000 of public money to be distributed among the schools; and as by the contemplated plan a sum is to be raised annually by tax, equal to the interest of the school fund, the gross amount of moneys which the schools will receive will be \$100,000. There are in this state forty-five counties, comprising, exclusively of the cities, four hundred and forty-nine towns. It will be very evident, therefore, that the proportion of each town must be necessarily small. As, however, the school districts are authorized to raise by tax a sum sufficient to purchase a lot, on which the school house is to be built, to build the school house and keep the same in repair, and as the school moneys are devoted exclusively to the payment of teachers' wages, the sum, however small, which each district will be entitled to, will be from these considerations so much the more efficacious. It will, however, be evident to the legislature, that the funds appropriated from the state for the support of the common school system, will, alone, be very inadequate. And the commission-

ers are of opinion that the fund, in any stage of it, even when the residue of the unsold lands shall be converted into money, bearing an interest, never will be, alone, adequate to the maintenance of common schools; as the increase of the population will probably be in as great if not a greater ratio than that of the fund. But it is hardly to be imagined that the legislature intended that the state should support the whole expense of so great an establishment. The object of the legislature, as understood by the commissioners, was to rouse the public attention to the important subject of education, and by adopting a system of common schools, in the expense of which the state would largely participate, to bring instruction within the reach and means of the humblest citizen. And the commissioners have kept in view the furtherance of this object of the legislature; for by requiring each district to raise by tax a sum sufficient to build and repair a school house, and by allotting the school moneys solely to the payment of the teacher's wages, they have in a measure supplied two of the most important sources of expense. Thus every inducement will be held out to the instruction of youth."

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"The legislature will perceive in the system contained in the bills submitted to their consideration, that the commissioners are deeply impressed with the importance of admitting, under the contemplated plan, such teachers only as are duly qualified. The respectability of every school must necessarily depend on the character of the master. To entitle a teacher to assume the control of a school, he should be endowed with the requisite literary qualifications, not only, but with an unimpeachable character. He should also be a man of patient and mild temperament. 'A preceptor,' says Rousseau, 'is invested with the rights, and takes upon himself the obligations of both father and mother.' And Quintillian tells us, 'that to the requisite literary and moral endowments, he must add the benevolent disposition of a parent.'"

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"When we consider the tender age at which children are sent to school; the length of the time they pass under the direction of the teachers; when we consider that their little minds are to be diverted from their natural propensities to the artificial acquisition of knowledge; that they are to be prepared for the reception of great moral and religious truths—to be inspired with a love of virtue and a detestation of vice; we shall forcibly perceive the absolute necessity of suitable qualifications on the part of the master. As an impediment to bad men getting into the schools, as teachers, it is made the duty of the town inspectors strictly to inquire into the moral and literary qualifications of those who may be candidates for the place of teacher.

And it is hoped that this precaution, aided by that desire which generally prevails, of employing good men only, will render it unnecessary to resort to any other measure.

"The commissioners, at the same time that they feel impressed with the importance of employing teachers of the character above described, cannot refrain from expressing their solicitude, as to the introduction of proper books into the contemplated schools. This is a subject so intimately connected with a good education, that it merits the serious consideration of all who are concerned in the establishment and management of schools. Much good is to be derived from a judicious selection of books, calculated to enlighten the understanding, not only, but to improve the heart. And as it is of incalculable consequence to guard the young and tender mind from receiving fallacious impressions, the commissioners cannot omit mentioning this subject as a part of the weighty trust reposed in them. Connected with the introduction of suitable books, the commissioners take the liberty of suggesting that some observations and advice touching the reading of the BIBLE in the schools might be salutary. In order to render the sacred volume productive of the greatest advantage, it should be held in a very different light from that of a common school book. It should be regarded as a book intended for literary improvement, not merely, but as inculcating great and indispensable moral truths also. With these impressions, the commissioners are induced to recommend the practice introduced into the New-York Free School, of having select chapters read at the opening of the school in the morning, and the like at the close in the afternoon. This is deemed the best mode of preserving the religious regard which is due to the sacred writings."

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"The commissioners cannot conclude this report without expressing once more their deep sense of the momentous subject committed to them. If we regard it as connected with the cause of religion and morality merely, its aspect is awfully solemn. But the other view of it already alluded to, is sufficient to excite the keenest solicitude in the legislative body. It is a subject, let it be repeated, intimately connected with the permanent prosperity of our political institutions. The American empire is founded on the virtue and intelligence of the people. But it were irrational to conceive that any form of government can long exist without virtue in the people. Where the largest portion of a nation is vicious, the government must cease to exist as it loses its functions. The laws cannot be executed where every man has a personal interest in screening and protecting the profligate and abandoned. When these are unrestrained by the wholesome coercion of authority, they give way to every species of excess and crime. One enormity brings on another,

until the whole community, becoming corrupt, bursts forth into some mighty change, or sinks at once into annihilation. 'Can it be,' said WASHINGTON, 'that Providence has not connected the permanent felicity of a nation with its virtue.' The experiment, at least, is recommended by every sentiment which ennobles human nature.

"And the commissioners cannot but hope that that Being who rules the universe in justice and in mercy, who rewards virtue and punishes vice, will most graciously deign to smile benignly on the humble efforts of a people, in a cause purely his own; and that He will manifest this pleasure in the lasting prosperity of our country."

We cannot deem any apology necessary for the space occupied by these extracts from this admirable report: shadowing forth as it does the great features of that system of public instruction subsequently adopted, and successfully carried into execution; and laying down in language at once eloquent and impressive, those fundamental principles upon which alone any system of popular education, in a republic like ours, must be based. The leading features of the system proposed by the commissioners, were adopted and passed into a law by the legislature, during the session of 1812, with the exception of leaving it discretionary with the electors of the several towns after the first distribution of public money, to receive their share and to raise an equal amount by tax, or to dispense alike with the burden and the benefits of the legal provisions, by vote at their annual town meetings.

On the organization of the system, GIDEON HAWLEY, Esq., then of the county of Saratoga, was appointed by the Council of Appointment, Superintendent of Common Schools.

On the fourth day of February, 1814, the first annual report of Mr. Hawley, as Superintendent of Common Schools, was transmitted to the legislature; in which he informs that body that in pursuance of the act for the establishment of common schools, passed on the 19th of June, 1812, he had at the commencement of the preceding year given due notice of an intended distribution of the interest of the school fund, and that by means of such notice, that act had been carried into operation so far as depended upon him; that although no official returns had been received from which an estimate might be formed of the beneficial operation of the act, yet that satisfactory evidence had been obtained, that in many cases its operation had been prevented by the refusal or neglect of towns to comply with its provisions; and that in other cases where such compliance had been made, and the act thereby carried into effect, its operation had been much embarrassed by difficulties, arising, as was believed, from the imperfection of its provisions; that notwithstanding these obstacles and embarrassments, its influence had

already proved very salutary, and that with the aid of legislative amendment, it promised to yield all that encouragement to common schools which it was designed to give. "It was not to be expected," continues the Superintendent, "that any system for the establishment of common schools could be devised, which in its first form should be wholly free from imperfections; and accordingly it has been found that the existing law for the establishment of such a system is, in some respects, defective in its provisions, and obscure and doubtful in its meaning." The report goes on to suggest such amendments as were deemed requisite in various particulars, not necessary to enumerate here. The operation, however, of that portion of the law which left it optional with the several towns to comply with its conditions and participate in its benefits, or not, as the inhabitants at their annual town meeting might determine, is worthy of special notice. We quote from that portion of the report which examines this feature of the system.

"The fifth section of the act provides that such towns in every county as shall have complied with the law, by directing their supervisors to levy on them the sum required by the act to entitle them to their proportion of the public money, shall receive by apportionment, from the board of supervisors, the whole dividend of the county, according to their respective population, to the exclusion of such towns as shall not have complied with the law. By a subsequent part of the same section, it is further provided that the sum required to be raised on each town, to entitle it to a share of the public money, must be equal to the sum apportioned to such town by the board of supervisors. By the operation of these several provisions in the act, the case may be that a single town in a county shall be entitled to receive the whole dividend for such county; and although this sum shall be more than sufficient, (as in ordinary cases it will be,) to support all its schools, it must nevertheless be subjected by tax to the payment of an additional sum equal in amount to the sum it is entitled to receive; and this additional sum must, in law, be applied to the support of its schools, which may have had (and in ordinary cases will have had) an excess of support already. Although the case here supposed has not yet occurred, to the knowledge of the Superintendent, there is nevertheless good reason to believe it will occur; satisfactory evidence having been obtained, that in some counties but few towns have complied with the law, or shown any disposition to comply therewith. The mischief herein complained of, may be remedied by providing that the board of supervisors shall not, in any case, raise by tax on any town, a sum exceeding the sum which such town shall be entitled to receive out of the county dividend, if all the towns in the county had complied with the law."

"It will be found by inspection of the act, that one of its principal features is the provision which gives every town an election, either to comply with the act and receive its benefits, and bear its burdens, or to refuse such compliance, and thereby forego its benefits, and avoid its burdens. In the exercise of this choice, it has already been observed that many towns have refused to comply with the act, and it is believed they will generally persist in such refusal, and that some other towns which have already complied with the law, will endeavor to retract their compliance. By allowing such an option to every town, the operation of the act depending on the pleasure, and not unfrequently the caprice of a few individuals, will be always partial and fluctuating; it will, moreover, be embarrassed by all the difficulties which are naturally connected with instability of system and intricacy of form. It is therefore submitted whether this provision in the act may not be so amended as to make it obligatory on towns to comply with the act, and also on the board of supervisors of the several counties to levy on their respective towns, a sum equal to the sum which shall be apportioned to such towns out of the public money to be distributed." This suggestion was adopted by the legislature, and the act amended in this and various other respects, in conformity to the recommendation of the Superintendent.

On the 11th of February, 1815, Mr. Hawley transmitted to the legislature his second annual report as Superintendent. The returns which had been made to him from the several counties were, however, so few in number, and in general so extremely defective in substance, and inartificial in form, that he did not deem it advisable to communicate them to the legislature, preferring to defer the performance of the duty required of him in this respect, until more perfect returns, in accordance with forms and instructions to be prepared by him, should enable him to discharge it more beneficially to the public. "The neglect of many of the commissioners of common schools, and other subordinate officers under the act," says the Superintendent, "in not making the returns required of them by law, and the manner in which others who have undertaken to make the necessary returns have discharged their duty, betray in some cases, a want of care and interest in the concerns of common schools, and generally a very great degree of embarrassment in conducting their operations. The Superintendent has also learnt from other sources, and especially from the frequent application to him for advice, that a very great degree of embarrassment has been felt by most persons who have any charge under the act for the establishment of schools. He has also observed that there has not as yet been excited that general interest in behalf of the establishment of common schools by law, which the importance of it might seem calculated to inspire.



It ought not, however, to be inferred from these or any other facts which have come to his knowledge, that the system of common schools established by law will not fulfil the beneficial ends of its institution, or that the reasonable expectations of its founders have yet been disappointed. It was not a reasonable expectation that the prejudices of the community would immediately subside, and their feelings fall in with a system which, being altogether new in its provisions, was untried in its operations. Nor was it reasonable to expect of such a system, that it would immediately fulfil all the beneficial ends of its institution. The system of common schools, like every other system which arrives to perfection, must be gradual in its growth; in its infancy it should be cherished with tenderness and care, and it ought not to be lightly discarded because it wants maturity, before it has had time to attain it. It is well known that most of the difficulties which now embarrass the concerns of common schools, and which, in the opinion of some, preclude the expectation of any beneficial result, do not arise so much from any defect in the system established by law, as from an ignorance of the duties required under that system, and the unaccustomed nature of its operations. But when time shall have removed the cause of this difficulty, as by the aid of occasional instructions it most infallibly will do, and shall have given to this system what constitutes the perfection of almost every other—a long establishment—there is a moral certainty that the beneficial ends of its institution will be fulfilled, and the expectations of its founders fully realized.” The Superintendent proceeds to suggest a few additional amendments to the act concerning common schools, and concludes with some observations in reference to the investment of the school fund.

On the first day of April, 1816, the Superintendent transmitted his third annual report, from which it appeared that returns relative to the condition of the schools had been made to him from 338 towns in thirty-six of the forty-six counties then in the state; that the whole number of districts from which reports had been received by the commissioners, in conformity to law, was 2,631; that the whole number of children between the ages of five and fifteen in said districts, was 176,449; and that 140,106 had been under instruction during a portion of the year reported in the common schools. The Superintendent, however, observes: “The returns not being complete, and many of them being defective in some one or more of their necessary requisites, it is difficult to form any certain estimate from them. Taking, however, the most correct and full returns for a criterion, it would appear that there are within the state, about five thousand districts in which common schools are established; that the number of children taught in them is at least two hundred thousand; and that the number of children between the ages of

five and fifteen years, residing in those districts, is about two hundred and fifty thousand. The city of Albany, and the city and county of New-York, not being divided into school districts under the act, are not included in this estimate." These being the first statistical returns under the act of 1812, it may not be uninteresting to contrast them with those for the year 1842, after the lapse of thirty years. The whole number of school districts is now about eleven thousand; the number of children between the ages of five and sixteen, is about six hundred and fifty thousand, of which not less than six hundred thousand are under instruction during the whole or a portion of the year in common schools.

But to resume our quotation from Mr. Hawley's report:—"The Superintendent has also had the satisfaction to learn from other sources, that the establishment of common schools by law has already produced many great and beneficial results. The number of schools has been increased; many school houses have been built; more able teachers employed, and much of that interest which ought to be felt in behalf of common schools, has been generally excited. The beneficial operation of the act has also been visible in the pecuniary aid which many schools have derived from it. A perpetual annuity of twenty dollars, which is the average sum received by each district under the act, ought not to be considered a trifle unworthy of any account. It has been very sensibly felt, especially in those districts where, from the inability of the inhabitants, or from any other cause, common schools have not been kept open for the whole year; and when the revenue of the fund shall have attained its full growth, the distributive share of each district will be so much more considerable, that the munificence of the legislature cannot fail to be more gratefully acknowledged.

"But the great benefit of the act does not lie in any pecuniary aid which it may afford. The people of this state are, in general, able to educate their children without the aid of any public gratuity; and if they fail in this respect, it is owing more to their want of proper schools than of sufficient means. The public gratuity is important, as it tends to excite an interest in the affairs of common schools which might not otherwise be felt, and is also beneficial in many other respects. But the great benefit of the act consists in securing the establishment of common schools, wherever they are necessary; in organizing them on a suitable and permanent foundation, and in guarding them against the admission of unqualified teachers. These were the great ends proposed in the establishment of common schools by law; and under the wise and liberal policy of the legislature, these ends have been so far accomplished as to warrant full faith in their final complete attainment."

On the 12th of March, 1817, Mr. Hawley transmitted to the legislature his fourth annual report, in which he states that "the returns which have been made to him during the last year, from most of the counties of the state, afford satisfactory evidence of a progressive increase in the number of common schools, and a corresponding improvement in their condition. It is ascertained with sufficient certainty, that there are within the state, exclusive of the city and county of New-York, at least five thousand common schools, which have been organized and kept up under the act for their establishment; and that the number of children annually taught in them exceeds two hundred thousand."

In his fifth annual report, under date of March 16, 1818, the Superintendent informs the legislature, that from the returns made to him during the preceding year, it appeared that there were more than five thousand common schools, in which were annually taught upwards of two hundred thousand children, the returns not being sufficiently full and definite to enable him to speak with more precision. "On comparing the returns of common schools, however, for different years, it appeared that in almost every district a greater proportion of the children between the ages of five and fifteen years have been taught, and a regular school supported for a longer time in every succeeding year, than in the preceding one. To this result, so favorable to the establishment of common schools by law, it may be added—and it has not escaped the most transient observer—that under the operation of this system, better teachers have been employed, a new and more respectable character given to our common schools, and a much greater interest excited in their behalf."

"It is now more than five years," continues the Superintendent, "since common schools were established by law. The first act of the legislature was passed in 1812. Soon after this act was carried into operation, it was discovered to be defective in many of its provisions. To supply this defect, and to add some provisions which were deemed necessary, a new act was passed in 1814. This act was also found on trial to be imperfect, and in the following year it underwent sundry amendments. Since that time, the system founded on the act of 1814, and the amendments of 1815, has remained unaltered; nor has a practice of three years under it discovered any very great defects. It was not, however, to be expected, even after the amendments of 1815, that the system would be found complete and perfect in all its details; on the contrary, it was to be expected of this as of every other new and untried system, that time would develop many imperfections which had not been foreseen." The Superintendent proceeds to suggest several particulars of the system which, in his judgment, required

amendment; and adds, "although when a system is once established it is not advisable to subject it to frequent revision and amendment, without urgent cause—yet as the system of common schools might be improved in these and other respects not adverted to, and it will be necessary, at least, to consolidate the different acts on the subject, the propriety of revising the whole system and amending it in some of its subordinate parts, is respectfully submitted." The residue of the report is devoted to a consideration of the Lancasterian system of education, the introduction of which, into the common schools, had been strongly recommended by the governor, (De Witt Clinton,) in his speech at the opening of the session. The peculiar excellencies of this system were clearly and distinctly pointed out by the Superintendent, and its adoption, especial'y in all the larger schools in cities and villages, urgently and ably enforced. Under the impetus thus given, Lancasterian schools were established in many portions of the state, and societies incorporated, several of which are still in existence, having for their object the introduction and promotion of the system of Bell and Lancaster, then at its zenith of popularity. Experience, however, failed to realize the sanguine anticipations of those friends of education who saw in the general adoption of this system, the commencement of a new and brighter era in the science of elementary instruction; and after an ephemeral and sickly existence, these institutions, from which such favorable results were expected, languished, and with few exceptions, disappeared. Whether the failure of this experiment resulted from inherent defects in the monitorial system of instruction, from its want of adaptation to the peculiar genius of our people, or from an inability on the part of those to whom its administration was committed, to carry into effect the plan of its founders and the views of its advocates, is still an unsettled question.

On the 17th of February, 1819, the Superintendent transmitted to the legislature his sixth annual report. From the returns which had been made to him during the preceding year, it appeared that in four hundred and two towns, from which only returns had been received, there were 4,116 common schools organized under the act for their establishment, and that in 3,844 of these schools, from which only particular district returns had been received, there had been taught during the year, 210,316 children. From one hundred and fifty-eight towns no returns had been received, and from many of the reporting towns the returns were to a considerable extent deficient. "Allowing the towns from which no returns have been made, to have the same number of schools in proportion to their population and extent, as other towns of equal extent and population from which returns have been made, the whole number of common schools in this state, organized and permanently established

under the act of the legislature, may be estimated at nearly six thousand; and the number of children annually taught in them, in the various branches of elementary education, at nearly two hundred and fifty thousand. This great increase and prosperity of our common schools," continues the Superintendent, "is evidently the result of the wise and liberal policy adopted by the legislature for their encouragement and support. On comparing the returns of schools made for different years since their first establishment by law, it appears that they have increased in a much greater ratio than the increase of population, and that their condition, which was before stationary, has, under the salutary operation of the law for their establishment, been rapidly and substantially improved. From the earliest returns made under the act, it appears that the number of children taught was not more than four-fifths of the number between the ages of five and fifteen years. From subsequent returns, it appears that the children taught had increased to five-sixths of that number. But from the last returns it appears that the number of children now taught is equal to seven-eighths of the number between the ages of five and fifteen years. From the same comparison it also appears, that the average length of time for which schools have been kept in each year, since their first establishment by law, has increased in about the same ratio as the number of children taught. The same data also afford evidence that common schools have risen in public estimation, and received a degree of care and attention to their concerns, corresponding with their increase and prosperity. If these results were the only evidence of a beneficial operation in the system of common schools provided by law, they would be sufficient to establish the public confidence in the policy of that system, and to secure it a permanent duration. But it is well known, although it does not appear from any data in the returns, that the system has produced other results not less in magnitude or merit. It has secured our schools against the admission of unqualified teachers, by requiring them to submit to examination before a public board of inspectors, and to obtain from them a certificate of approbation, before they can legally be employed. It has imparted to common schools a new and more respectable character, by making them a subject of legal notice, and investing them with powers to regulate their own concerns. It has corrected many evils in the discipline and government of schools, not only by excluding unqualified teachers, but by subjecting the schools and course of studies in them, to the frequent inspection of public officers. It has founded schools in places where, by conflicting interests, or want of concert in the inhabitants, none had been before established; and it has, by its pecuniary aid, enabled many indigent children to receive the benefits of education, which would not otherwise have been

within their reach. The system having already fulfilled so many of the beneficial ends of its institution, and it being now only six years since it was first organized and carried into operation, it is warrantable to infer that all the expectations of its founders will in due time be realized."

The Superintendent renews his recommendation for a revision and consolidation of the several enactments relating to common schools. His suggestions in this respect were adopted by the legislature, and on the 19th of April following, the "Act for the support of Common Schools" was re-enacted, with the various amendments which had from time to time been made, and such as were suggested by Mr. Hawley in his reports for the two preceding years. The publication of the revised act was accompanied by an able exposition of its various provisions, from the pen of Mr. Hawley, and with complete forms for the several proceedings required under it by the several officers connected with its administration.

On the 21st of February, 1820, Mr. Hawley transmitted to the legislature his seventh annual report. He states "that the returns of common schools for the last year are much more full and satisfactory than any before received;" that from these returns it appeared that in 515 towns, there were 5,763 common schools organized according to law, and that in 5,118 of these schools, from which only particular district returns had been received, there had been taught during the year, in the various branches of elementary education, 271,877 children. The number of children between the ages of five and fifteen years, residing in the districts from which returns had been received, was, 302,703, making the number of children taught equal to nine-tenths of the whole number between the ages of five and fifteen.

On the 21st of February, 1821, Mr. Hawley transmitted to the legislature his eighth and last annual report as Superintendent; from which it appeared that in 545 towns from which returns had been received, there were 6,328 school districts organized according to law, from 5,489 of which particular district reports had been made, showing that of 317,633 children, between the ages of five and fifteen years, residing in those districts, 304,549 had been under instruction during portions of the year in the common schools. No returns were received from twenty-seven towns. "The proportion," observes the Superintendent, "which, from the present returns, the number of children taught bears to the number between the ages of five and fifteen years, is much greater than at any former period. In about one-half of the towns in the state, the number taught exceeds the number between the ages of five and fifteen years; and taking the whole state together, the number taught is more than nineteen-twentieths of the number between these ages.

The average length of time for which schools have been kept for the last year, has also increased in about the same ratio as the number of children taught. There is now, therefore, reason to believe that the number of children in the state who do not attend any school, and who are not otherwise in the way of receiving a common education, is very small. The public bounty is sufficient to defray the expense of most schools for about three months in the year; and where that is expended in different parts of the year, so as not to defray the whole expense of the school for any particular part, it is understood that in most districts poor children have been permitted to attend the district school free of expense, under that provision in the school act which empowers districts to exonerate those children from the payment of teachers' wages. The readiness with which such permission has been generally granted, wherever it has been deserved, is very creditable to the public spirit and liberality of the inhabitants of school districts, and it is considered proper on this occasion, to bring the fact to the notice of the legislature. From these circumstances, in connection with the friendly disposition every where manifested in the cause of education, it is considered warrantable to infer, that of the rising generation in this state, very few individuals will arrive to maturity without the enjoyment and protection of a common education."

To no individual in the state, are the friends of common school education more deeply indebted for the impetus given to the cause of elementary instruction in its infancy, than to GIDEON HAWLEY. At a period when every thing depended upon organization; upon supervision; upon practical acquaintance with the most minute details; and upon a patient, persevering, laborious process of exposition, Mr. Hawley united in himself all the requisites for the efficient discharge of the high functions devolved upon him by the legislature. From a state of anarchy and confusion, and complete disorganization, within a period of less than eight years, arose a beautiful and stately fabric, based upon the most impregnable foundations, sustained by an enlightened public sentiment, fortified by the best and most enduring affections of the people, and cherished as the safeguard of the state—the true palladium of its greatness and prosperity. Within this brief period the number of school districts had more than doubled, and the proportion of children annually participating in the blessings of elementary instruction, increased from four-fifths to twenty-four twenty-fifths of the whole number residing in the state of a suitable age to attend the public schools. When we take into view the disadvantages under which every new and untried system must, of necessity, labor, before it can be commended to general adoption, and consider the immense variety of interests which were,

to a greater or less extent, affected by the stringent provisions of the act of 1812, and its subsequent amendments, we cannot fail of being surprised at the magnitude of the results which developed themselves under the administration of Mr. Hawley. The foundations of a permanent and noble system of popular education were strongly and securely laid by him, and we are now witnessing the magnificent superstructure, which, in the progress of a quarter of a century, has been gradually upbuilt on these foundations. Immediately after the completion of his last annual report, Mr. H. retired to the shades of private life, where he has ever since remained, in the enjoyment, we trust, of all the happiness and tranquillity to which his long and arduous labors in the cause of education richly entitled him. WELCOME ESLEECK, of the city of Albany, was named as his successor in office, but the legislature saw fit to abolish the office as a separate department of the government, and to devolve its duties upon the secretary of state.

By the Constitution of 1821, the proceeds of all lands thereafter to be sold, belonging to the state, with the exception of such as might be reserved for public use or ceded to the United States, together with the existing school fund, were declared to constitute "a perpetual fund, the interest of which shall be inviolably appropriated and applied to the support of common schools throughout this state."

In his speech at the opening of the legislature, at its session of 1822, the governor (De Witt Clinton) refers to the condition of the system of public instruction, in the following terms:

"The excellent direction which has been given to the public bounty, in appropriations for common schools, academies and colleges, is very perceptible in the multiplication of our seminaries of education, in the increase of the number of students, and in the acquisition of able and skilful teachers. The Lancasterian or monitorial system is making its way in the community, by the force of its transcendant merits. Our common schools have flourished beyond all former example." \* \*

"I am happy to have it in my power to say that this state has always evinced a liberal spirit in the promotion of education; and I am persuaded that no considerations short of total inability will ever prevent similar demonstrations. The first duty of a state is to render its citizens virtuous, by intellectual instruction and moral discipline, by enlightening their minds, purifying their hearts, and teaching them their rights and their obligations. Those solid and enduring honors which arise from the cultivation of science, and the acquisition and diffusion of knowledge, will outlive the renown of the statesman and the glory of the warrior; and if any stimulus were wanting in a case so worthy of all our attention and patronage, we may find it in the example before our eyes of the author of the Declara-



tion of Independence, who has devoted the evening of his illustrious life to the establishment of an university in his native state."

In connection with this subject the governor also transmitted the proceedings of the legislatures of the several states, relative to the appropriation of a portion of the national domain to the purposes of education; by which it appeared that in eleven of the new states and territories, the general government had appropriated one thirty-sixth part of the public land for common schools, and one fifth part of that thirty-sixth part for colleges and academies; and while it was admitted that this disposition was in all respects proper and laudable, it was contended that the other members of the confederacy were entitled to a correspondent benefit out of the same common fund. "This claim," observes his Excellency, "appears to be sustained by the most conclusive reasoning; and it is believed to be impossible for congress to resist an application so just and beneficial. If, however, this measure were calculated to embarrass the financial arrangements of the national government, to make a serious inroad on the national domain, or to disparage the interests of the states which have already been benefited, I should be entirely unwilling to press it. Whatever ratio of distribution may be adopted, the quantum of population, or the extent of territory of each state, the deduction from the landed estate of the empire, would be so small as scarcely to be felt. In either case it would not exceed ten millions out of five hundred millions of acres owned by the United States. It is our duty to co-operate in obtaining justice for our sister states as well as for ourselves. If we were willing to waive the benefit which might be derived from the success of this application, it would furnish no just ground of hostility to the claim in general; and indeed in such case it would entirely correspond with the dictates of magnanimity, to advocate it with all our might and influence. This state, on the basis of appropriation originally adopted, would be entitled to 800,000 acres for our common schools, and 160,000 for our colleges and academies; which, with proper management, and in connection with existing funds, would answer all the requisitions of education."

By the annual report of the acting Superintendent of Common Schools (JOHN VAN NESS YATES, Esq., Secretary of State) it appears that the total number of school districts in the state was 6,865, from 5,832 of which reports in accordance with law had been received; that the total number of children between the ages of five and sixteen years residing in the several districts, was 380,000; and the total number of children of all ages taught in the common schools during the year reported, was 342,479; and that the average number of months during which the schools were kept open in the several districts was

eight. Several amendments in the details of the system were suggested, most of which were adopted by the legislature; including, for the first time, the provision investing the Superintendent with appellate jurisdiction over all controversies arising under the school laws, and declaring his decision thereon final. In pursuance of a provision contained in this act, the act of 1819, with all the subsequent amendments, was republished by the Superintendent, accompanied by an exposition of its various provisions, and an abstract of the decisions which had been pronounced, during the period which had elapsed since the adoption of the appellate system.

On the 3d of February, 1823, Mr. Yates transmitted to the legislature his second annual report as Superintendent of Common Schools; from which it appeared that returns had been received during the preceding year from all the counties in the state, fifty-two in number, comprising 649 towns and wards; that the whole number of school districts in the state exceeded 8,000; from 6,255 of which, only, reports in accordance with law had been received, in which the number of children between the ages of five and fifteen was about 357,000; that for the term of eight months during the year reported, 351,173 children were receiving a common school education in the several districts from which reports had been received—being 18,194 more than were educated the preceding year. The Superintendent adds: "Even in Connecticut, which possesses a larger school fund than we do, and where the school system was established and in successful operation long before it was here introduced, the number of children educated in common schools is far less in proportion to its population than it is in this state." He complains of the "want of uniformity in the course of studies pursued, and the books and treatises now used in common schools. A great diversity of opinion has long existed and still continues to exist as to the proper books to be introduced into these schools; and teachers and parents are not unfrequently at a loss to select among the great variety of treatises on education recommended by their authors, the most suitable and best adapted for the use of the student. Whether this evil could be remedied by directing some judicious and appropriate work to be prepared, in the nature of a "Common School Instructor," and to be recommended to the public under the immediate sanction and approbation of the legislature, is respectfully submitted."

The annual appropriation from the funds of the state, at this period, for the benefit of common schools, was fixed by the act of 1819 at \$80,000. These funds consisted of the loan of 1792, then amounting to \$500,000; of that of 1808, amounting to \$449,000; of stock in the Merchant's Bank of the city of New-York, the par value of which amounted to \$180,000, and

on which annual dividends of nine per cent. were regularly made; of one-half the quit-rents, estimated at \$100,000; and the fees of the supreme court, then producing an annual income of about \$7,000. The revenues arising from these several sources were estimated at \$80,000 per annum at least. But in consequence of a reduction of the fees of the supreme court, and a diversion of those fees from the school fund—together with a commutation for quit-rents, and a temporary suspension of dividends by the Merchants' Bank, growing out of frauds to a large amount which had been practiced on that institution—an annual deficiency, varying from \$13,000 to \$7,000, had occurred during the preceding four years, which the legislature, considering the faith of the state pledged to keep up the appropriation directed by the act of 1819, had supplied, by special grants from the general funds. A continuance of this deficiency being probable, the governor (JOSEPH C. YATES) had recommended, in his annual message at the commencement of the session of 1823, "the sale of the whole or a part of the public lands appropriated to the school fund, for the purpose of raising a productive capital, yielding an interest sufficient to make good the annual deficiency in the school revenue."

On the 23d of January, GULIAN C. VERPLANCK, of the city of New-York, chairman of the committee on colleges, academies and common schools, made a report on this subject in the assembly, adverse to the expediency of throwing the lands of the state appropriated to the school fund into the market, at a forced sale to the highest bidder; and in favor of continuing the existing limitations on those sales, viz., by a minimum price paid by the surveyor-general, after survey and appraisement. The committee remark that the sum which would probably be realized by a forced sale, "would be comparatively inconsiderable, and though these lands are now unproductive, yet on the other hand they are of no charge to the state. Moreover, it is at present impossible to anticipate what increase in their value may hereafter take place from the opening of roads and canals, from the new direction which our internal commerce may take from those causes, as well as from the establishment of manufactories, and the probable discovery of mines. The present advantage seems to the committee to be too small for the sacrifice of those remote, yet not improbable future advantages." \* \* \* "In making these additional appropriations to the school fund, it was certainly not the immediate object of the convention to supply the present casual deficiencies of our revenue. They had far larger and grander views. Knowing that in our age and country, where every thing is improving and increasing about us, all wise public institutions should be so framed as to enlarge themselves with the enlargement of population and the advance of mind, it was

their design to establish a fund, having within itself a principle of increase, which would augment in value with the augmenting number of our people, and thus perpetuate and extend to future and distant generations, all the blessings of our noble and extensive system of public instruction."

On the 7th of January, 1824, the acting Superintendent, Mr. Yates, transmitted his third annual report to the legislature, from which the following results were shown:

1. That all the counties, fifty-four in number, and ~~all the~~ towns and wards, being 684 in number, had, with the exception of twenty-seven towns, presented their reports for the preceding year:

2. That there were in the state 7,382 school districts, from 6,705 of which reports had been received in accordance with law:

3. That 331 new school districts had been organized during the year:

4. That upwards of 377,000 children had been instructed in the districts from which reports had been received, for an average period of eight months during the preceding year; and 23,500 more were estimated to have been under instruction during the same period in the non-reporting districts; making a grand total of upwards of 400,500 children thus under instruction in all the common schools of the state; exceeding by nearly 26,000 the number under instruction during the preceding year:

5. That the whole number of children between the ages of five and fifteen years, residing in the several districts from which reports were received, was about 373,000:

6. That the sum of \$182,802.25 of public money had been expended during the year reported, in the payment of the wages of duly qualified teachers; and it was estimated by the Superintendent, that in addition to this amount, more than \$850,000 from the private funds of individuals were appropriated in like manner, during the same period; making a grand total of upwards of ONE MILLION of dollars. "These facts," observes the Superintendent, "require no comment. They demonstrate the signal success which has attended the exertions made from time to time by the legislature to disseminate useful knowledge among every class of the community; and it must also be gratifying to perceive that our sister states, animated with a like zeal for ameliorating the condition of society, are introducing and supporting among them institutions similar to our own." Among other recommendations and suggestions, the Superintendent recommends the establishment of schools in cities and villages, exclusively for the benefit of *colored children*. He also suggests the consolidation and revision of the several acts relating to common schools; and concludes as follows:

"The funds provided and secured by the Constitution for the support of common schools have become only in part productive, as will be seen from the operations of the treasury department for the past year. By far the largest portion of those funds is still inactive, and must continue so, until advantageous sales can be made of nearly a million of acres of land, appropriated to the use of common schools. It is not extravagant to predict that when that period shall arrive, the anticipations of the patriot and philanthropist with regard to the still more extensive operation of our school system, and its favorable effects upon the condition of society, will be fully realized. Indeed, what has education not already effected! It has given man dominion, not only over the elements, but it has enlarged his capacity and faculties beyond the sphere in which he moves. It has shown him that intellectual wealth is national wealth, and that it lies at the foundation of all that is useful in the arts; that its influence extends to the narrower path of private virtue and daily duty; and that while it strengthens the tie between parent and child, husband and wife, citizen and citizen, it secures from the rude and withering hand of oppression, and from the iron grasp of despotism, those valuable institutions of government, which it is no less the pride than it is the duty of freemen to maintain pure and inviolate. Common schools, supported by law and open alike to the poor and to the rich, (as they emphatically are in this state,) together with the higher seminaries of learning, are those monuments which render the glory of a nation imperishable; and while this state is engaged in the great works of canals and other internal improvements, she shows the boundless extent of her resources and the energies of her character by supporting at the same time, upon a basis equally broad and enduring, a plan of education unequalled in its operations and effect, by that of any other country in the civilized world."

On the 12th of January, 1825, Mr. Yates transmitted to the legislature his fourth annual report, from which it appeared that the number of children taught, for an average period of nine months, in the common schools during the preceding year, was 402,940; being nearly 26,000 more than the number taught in 1823. The number of school districts was 7,642, from 6,936 of which reports had been received. The aggregate amount of public money received and expended in the payment of teachers' wages in the reporting districts during the year was \$182,741.61.

In August of the preceding year, the Superintendent had issued a circular recommending *school celebrations* in the several towns of the state, from which the following are extracts: "The object in view is extremely important, for it is addressed as well to the affections of the parent as the feelings and inte-

rests of the citizen. The happiness of society and the freedom of our country mainly depend upon the general diffusion of knowledge, and it is our duty to devise the best means for attaining and securing that very desirable end. In a few years, the children that now sit upon our knees, or play around the room, will fill our places and become the future legislators, magistrates and judges of our country, while we are silently descending to the tomb. How consoling then the reflection will be, that those objects of our affection are about to realize our fondest hopes and do honor to our memories! Even now, when we hear recounted the sage deliberations of the statesman, or the gallant achievements of the warrior, or the brilliant and still more useful attainments of the scholar, or the sacred and impressive eloquence of the divine or the profound arguments of the lawyer, or the useful inventions and experiments of the philosopher, farmer and mechanic, do not our bosoms burn with admiration, and do not the eyes and hearts of each of us exclaim, 'Would that he were my son!' If then, these are the delightful emotions excited in us from the mere relation of the grand effects which knowledge and virtue produce, can we refuse yielding our best exertions to realize them in the persons of our children? The means, under Providence, are fully within our power, and painful will be our reflections, if we neglect them."

"The plan suggested for the improvement of our common schools, by instituting celebrations, promises, I am convinced, far more beneficial and important consequences than any other hitherto devised. The experiment is neither doubtful nor difficult; and its benefits are certain, and their extent beyond calculation. Indeed, when we see the flourishing condition of our colleges and academies, and know that much is attributable to their public anniversaries, and commencements, why should we hesitate to believe that the same means when used in support of our common schools, will produce the same end? And why, permit me to ask, should not our common schools be placed on a footing as respectable as any other seminaries of learning? Are they not as useful? and is not their influence more generally felt and acknowledged? When we consider also the high character which our common schools have so deservedly maintained—when we find other states and countries imitating their example and quoting their success, should we not feel the strongest desire to render them still more worthy of this distinction, and still more useful to ourselves and to posterity?"

In his message to the legislature at the opening of the session of 1826, the governor (De Witt Clinton) thus adverts to the subject of education:

"The first duty of government, and the surest evidence of good government, is the encouragement of education. A gene-

ral diffusion of knowledge is the precursor and protector of republican institutions; and in it we must confide as the conservative power that will watch over our liberties, and guard them against fraud, intrigue, corruption and violence. In early infancy, education may be usefully administered. In some parts of Great Britain, infant schools have been successfully established, comprising children from two to six years of age, whose tempers, hearts and minds are ameliorated, and whose indigent parents are enabled by these means to devote themselves to labor, without interruption or uneasiness. Institutions of this kind are only adapted to a dense population, and must be left to the guardianship of private benevolence. Our common schools embrace children from five to fifteen years old, and continue to increase and prosper. The appropriation for the school fund for the last year, amounted to \$80,670, and an equivalent sum is also raised by taxation in the several counties and towns, and is applied in the same way. The capital fund is \$1,333,000, which will be in a state of rapid augmentation from sales of the public lands and other sources; and it is well ascertained that more than 420,000 children have been taught in our common schools during the last year. The sum distributed by the state is now too small, and the general fund can well warrant an augmentation to \$120,000 annually.

“Our system of instruction, with all its numerous benefits, is still, however, susceptible of improvement. Ten years of the life of a child may now be spent in a common school. In two years the elements of instruction may be acquired, and the remaining eight years must either be spent in repetition or in idleness, unless the teachers of common schools are competent to instruct in the higher branches of knowledge. The outlines of geography, algebra, mineralogy, agricultural chemistry, mechanical philosophy, surveying, geometry, astronomy, political economy and ethics, might be communicated in that period of time by able preceptors, without essential interference with the calls of domestic industry. The vocation of a teacher, in its influence on the character and destinies of the rising and all future generations, has either not been fully understood or duly estimated. It is, or ought to be, ranked among the learned professions. With a full admission of the merits of several who now officiate in that capacity, still it must be conceded that the information of many of the instructors of our common schools does not extend beyond rudimental education; that our expanding population requires constant accessions to their numbers; and that to realize these views, it is necessary that some new plan for obtaining able teachers should be devised. I therefore recommend a *seminary for the education of teachers*, in the monitorial system of instruction, and in those useful branches of knowledge which are proper to engraft on ele-

mentary attainments. A compliance with this recommendation will have the most benign influence on individual happiness and social prosperity. To break down the barriers which poverty has erected against the acquisition and dispensation of knowledge, is to restore the just equilibrium of society, and to perform a duty of indispensable and paramount obligation; and under this impression I also recommend that provision be made for the gratuitous education, in our superior seminaries, of indigent, talented, and meritorious youth.

"I consider the system of our common schools as the palladium of our freedom; for no reasonable apprehension can be entertained of its subversion, as long as the great body of the people are enlightened by education. To increase the funds, to extend the benefits, and to remedy the defects of this excellent system, is worthy of your most deliberate attention. The officer who now so ably presides over that department is prevented by his other official duties from visiting our schools in person, nor is he indeed clothed with this power. A visitatorial authority for the purpose of detecting abuses in the application of the funds, of examining into the modes and plans of instruction, and of suggesting improvements, would unquestionably be attended with the most propitious effects."

It will be perceived that the governor here shadows forth two of the great features of public instruction subsequently engrafted upon our system; the establishment of institutions for the education of teachers; and the appointment of visitors.

On the 4th of February subsequently, Mr. JOHN C. SPENCER, from the literature committee of the senate, to which this portion of the message of the governor had been referred, made an able report, in the course of which he distinctly suggests the expediency and practicability of a plan of county supervision, without however, going into any specific details. Thus it will be perceived, that as early as 1826, several of the prominent features of the admirable system which now prevails, were brought to the notice and attention of the legislature, by two of our most distinguished and eminent statesmen; one of whom, (Mr. Spencer) fifteen years afterwards, aided in carrying into practical and successful operation, the very plan in substance, which he had suggested at this early period. In the mean time, however, a similar suggestion had been earnestly and urgently pressed upon the public consideration by another distinguished friend of the common school system—the Hon. JAMES D. HAMMOND; who in 1836 published a series of numbers in the Cherry-Valley Gazette, from whence they were transferred to other periodicals, showing as well the practicability as the expediency of the adoption of the system of county supervision and inspection, and urging the abolition of the office of town inspector. Judge Hammond's plan was the appoint-



ment by the governor and senate, or by the State Superintendent, of a County Inspector of Common Schools, in each county, with power to license teachers and visit schools, and who should be required to report periodically to the Superintendent. This was, in substance, the plan afterwards recommended to the legislature by Mr. Spencer.

The following extracts from the report of Mr. Spencer in 1826, to which allusion has above been made, will be found interesting:

"The committee concur entirely in the sentiments expressed by the governor in relation to the importance of the vocation of a teacher, and to the propriety of occupying the time of the young in the higher branches of knowledge. The progress of improvement in the great business of education, must necessarily be slow and gradual. Our common school system is itself but of recent origin; and during the few years in which it has been in operation, incalculable good has been effected, particularly in causing the establishment of schools where none existed before, and where none would have existed but for its provisions. We cannot expect to make it at once perfect, but must content ourselves with providing remedies for the most obvious and important defects as they are discovered. From the observation of the committee, and from the best information they can obtain, they are persuaded that the greatest evils now existing in the system are the want of competent teachers, and the indisposition of the trustees of districts to incur the expense of employing those who are competent, when they can be obtained. It is a lamentable fact that from a mistaken economy, the cheapest teachers, whether male or female, and generally the latter, are employed in many districts for three-fourths of the year, and a competent instructor is provided for only one-quarter, and sometimes not at all, during the year. The state is thus made to contribute almost wholly to the support of teachers. This is a perversion of the public bounty; and its effect on the children, who ought to be provided with the means of instruction during the whole year, is most disastrous: for those above five or six years old are thus excluded from school three-fourths of their time, which must be spent in mental idleness, and thus the most precious time for education is utterly thrown away. The present arrangement of the authority to license and employ teachers, contributes to this result. Teachers are licensed by town inspectors, themselves generally and necessarily incompetent to determine upon the qualifications of candidates, and willing to sanction such as the trustees feel able or disposed to employ. This is essentially wrong; and the state, which contributes so large a portion of the compensation of the teacher, has a right to direct its application in such a way as to effect *the object of procuring useful instruction*. The remedy must

be found in the organization of some local board, vested with the authority of licensing teachers and of revoking the license, and charged with a general superintendence of the schools within the prescribed limits. The division of the state into counties affords a convenient distribution of territory for these purposes. And if it be made a condition of receiving the public donation, that teachers thus authorized shall have been employed for a portion of the year, it is believed that the sure and inevitable consequence would be the employment of instructors much more competent than the average of the present teachers. In those counties where the population is small and scattered, the standard of competency will necessarily be low; but it will advance with the means of the districts and with the prosperity and intelligence of the counties. In other counties, where candidates were more numerous, the qualifications would be higher. The teachers would become emphatically a profession; men would devote themselves to it as the means of livelihood, and would prepare themselves accordingly. Their character would advance, and with it their usefulness and the respect of their fellow-citizens. Such is an outline of the first efforts, which, in the opinion of the committee, should be made to obtain able teachers.

"The next object is to provide the means of qualifying the necessary number of teachers. By the report of the Superintendent of Common schools made in January, 1825, it appears there were then in this state 7,642 school districts. That, then, is the number of teachers now required; the best evidence that can be adduced to show that there must always be a sufficient demand for those who are qualified. It is obvious that the suggestion of the governor, in his message respecting the establishment of an institution especially for the purpose of educating teachers, will not answer the exigencies of the case. It is entitled to much weight, however, as a means, in conjunction with others, to effect the object. But in the view which the committee have taken, our great reliance for nurseries of teachers must be placed on our colleges and academies. If they do not answer this purpose they can be of very little use. That they have not hitherto been more extensively useful in that respect, is owing to inherent defects in the system of studies pursued there. When the heads of our colleges are apprised of the great want of teachers which it is so completely in their power to relieve, if not supply, it is but reasonable to expect that they will adopt a system by which young men whose pursuits do not require a knowledge of classics, may avail themselves of the talent and instruction in those institutions suited to their wants, without being compelled also to receive that which they do not want, and for which they have neither time nor money.

"Our academies also have failed to supply the want of teachers, to the extent which was within their power; although it is acknowledged that in this respect they have been eminently useful. But instead of being incited to such efforts, they are rather restrained by the regulations adopted by the Regents of the University for the distribution of the literary fund placed at their disposal. The income of that fund is divided among the academies in proportion to the number of classical students in each, without reference to those who are pursuing the highest and most useful branches of an English course. With such encouragement, how could it be expected of trustees of academies that they should prefer a pupil disposed to study the Elements of Euclid, surveying, or Belles-lettres, to a boy who would commit the Latin Grammar, while the latter would entitle them to a bounty which was refused to the former? The committee are not disposed to censure the Regents; they have merely followed the fashion of the times; and it is believed that they are themselves alive to the importance of extending the usefulness of the institutions under their care, by adapting them more to the wants of the country and the spirit of the age. But if they should not be willing to extend the benefits of the fund under their control, beyond classical students, still it will be in the power of the legislature, and within the means of the state, to appropriate a capital sum that will yield a sufficient income to compensate for this inequality, and to place the English student on the same footing with the others, and thus make it the interest of the academies to instruct them. And if this bounty be distributed in reference to the number of persons instructed at an academy who shall have been licensed as teachers of common schools by the proper board, it is believed the object of obtaining able instructors will soon be accomplished.

"The committee have not been able to discover why, upon every principle of justice and of public policy, seminaries for the education of females in the higher branches of knowledge should not participate equally with those for the instruction of males, in the public bounty.

"In connection with these, the committee admit that the establishment of a separate institution for the sole purpose of preparing teachers, would be a most valuable auxiliary, especially if they were to be prepared to teach on the monitorial plan. They hesitate to recommend its adoption now, chiefly because the other measures which they intend to submit, and which they conceive to be more immediately necessary, will involve as much expense as ought now to be incurred. But they fondly anticipate the time when the means of the state will be commensurate with the public spirit of its legislature, and when such an institution will be founded on a scale equal to our wants and our resources."

The committee, after adverting to the embarrassments caused by the prevalent diversity of text books in the several schools of the state, recommend an appropriation for "the printing of large editions of such elementary works as the spelling book, an English dictionary, a grammar, a system of arithmetic, American history and biography, to be used in schools, and to be distributed gratuitously, or sold at cost." "There can be no doubt," say the committee, "that a selection of such works as have been enumerated could be made by a competent board, excluding all sectarian views and tenets, as would be entirely satisfactory to the citizens of this state."

On the 14th of February, 1826, AZARIAH C. FLAGG, of the county of Clinton, was appointed secretary of state; and the administration of the common school system consequently devolved upon him. The interests of public instruction had been ably and faithfully guarded by Mr. YATES; who seems to have united to eminent talents as an executive and administrative officer, a lively zeal for the promotion of education and the diffusion of knowledge among the great body of the people. His various reports exhibit an accurate practical knowledge of the working of the common school system, in all its departments; his decisions on the numerous appeals which were from time to time brought before him, were characterized by a sound discrimination; and his efforts for the improvement and advancement of the schools were earnest and indefatigable.

The first annual report of Mr. Flagg as Superintendent of Common Schools, was transmitted to the legislature on the 13th of March, 1826; from which it appeared that 425,350 children had been taught in the common schools during the year; being 22,410 more than were taught the preceding year, and exceeding by 29,764 the number between the ages of five and fifteen residing in the state. The whole number of organized school districts in the state was 7,773. The Superintendent alludes to the necessity of "some provision which should have a tendency to increase the number of qualified instructors," and adds: "It might be beneficial to offer facilities for the special education of common school teachers; and as the districts progress in wealth, and the donation of the state is increased, inducements will be furnished for a greater number of persons of competent talents, to engage in the business of teaching, as a profession."

At the opening of the session of 1827, Gov. CLINTON thus eloquently alluded to the subject of popular education:

"The great bulwark of republican government is the cultivation of education; for the right of suffrage cannot be exercised in a salutary manner without intelligence. It is gratifying to find that education continues to flourish. We may safely estimate the number of our common schools at 8,000; the num-

ber of children taught during the last year, on an average of eight months, at 430,000; and the sum expended in education at 200,000 dollars. It is however too palpable that our system is surrounded by imperfections which demand the wise consideration and improving interposition of the legislature. In the first place, there is no provision made for the education of competent instructors. Of the eight thousand now employed in this state, too many are destitute of the requisite qualifications, and perhaps no considerable number are able to teach beyond rudimental instruction. Ten years of a child's life, from five to fifteen, may be spent in a common school; and ought this immense portion of time to be absorbed in learning what can be acquired in a short period? Perhaps one-fourth of our population is annually instructed in our common schools; and ought the minds and the morals of the rising, and perhaps the destinies of all future generations, to be entrusted to the guardianship of incompetence? The scale of instruction must be elevated; the standard of education ought to be raised; and a central school on the monitorial plan ought to be established in each county, for the education of teachers, and as exemplars for other momentous purposes connected with the improvement of the human mind. \* \* \* \* Small and suitable collections of books and maps, attached to our common schools, and periodical examinations to test the proficiency of the scholars, and the merits of the teachers, are worthy of attention. When it is understood that objects of this description enter into the very formation of our characters, control our destinies through life, protect the freedom and advance the glory of our country; and when it is considered that seminaries for general education are either not provided in the old world, or but imperfectly supplied by charity and Sunday schools, and that this is the appropriate soil of liberty and education, let it be our pride, as it is our duty, to spare no exertion, and to shrink from no expense in the promotion of a cause consecrated by religion and enjoined by patriotism; nor let us be regardless of ample encouragement of the higher institutions devoted to literature and science. Independently of their intrinsic merits, and their diffusive and enduring benefits, in reference to their appropriate objects, they have in a special manner, a most auspicious influence on all subordinate institutions.

"They give to society men of improved and enlarged minds, who, feeling the importance of information in their own experience, will naturally cherish an ardent desire to extend its blessings. Science delights in expansion, as well as in concentration; and after having flourished within the precincts of academies and universities, will spread itself over the land, enlightening society and ameliorating the condition of man. The more elevated the tree of knowledge, and the more

expanded its branches, the greater will be its trunk, and the deeper its root."

On the 21st of February, Mr. SPENCER, from the literature committee of the senate, to which had been referred that portion of the message of the governor relating to common schools and the providing of competent teachers, brought in a bill, entitled "An act to provide permanent funds for the annual appropriation to common schools, to increase the literature fund, and to promote the education of teachers," which, with some slight amendments, became a law on the 13th of April following. This bill transferred to the common school fund the balance due on the loan of 1786, together with \$100,000 of bank stock owned by the state: and to the literature fund, from the canal fund, the sum of \$150,000; the income of which, together with that of the \$95,000 formerly belonging to the fund, was required to be annually distributed by the Regents of the University "among the incorporated academies and seminaries of this state, other than colleges, which are subject to the visitation of the said Regents, &c., in proportion to the number of pupils instructed in each academy or seminary for six months during the preceding year, who shall have pursued classical studies, or the higher branches of *English education*, or both." From the report accompanying the bill the following extracts are taken, with the view of showing the design of the legislature in thus increasing the literature fund.

"Another object of still greater importance is the furnishing of competent teachers for the instruction of common schools. In vain will you have established a system of instruction, in vain will you appropriate money to educate the children of the poor, if you do not provide persons competent to execute your system, and to teach the pupils collected in the schools. The message of the governor and the report of the Superintendent concur in pressing this subject upon our attention with the most anxious solicitude; and every citizen who has paid attention to it, and become acquainted practically with the situation of our schools, knows that the incompetency of the great mass of teachers is a radical defect, which impedes the whole system, frustrates the benevolent designs of the legislature, and defeats the hopes and wishes of all who feel an interest in disseminating the blessings of education. There are 8,114 organized school districts in this state; and if there be added the schools in the city of New-York, in Albany, Troy and Hudson, not included in the returns, and the private schools which are established in almost every county, we shall be justified in estimating the number of teachers required to carry on the business of instruction, at not far from ten thousand. This result places in a strong view the vast importance of the subject. From what sources can this supply of teachers be obtained? And how can

## COMMON SCHOOL SYSTEM

the great body of this multitude be rendered competent to their stations? In a free government resting upon the intelligence of its citizens, these questions are of vital importance.

"The governor has recommended the establishment of central schools upon the monitorial plan for the instruction of teachers. From the best consideration which the committee have been able to bestow upon the subject, and from all the information which they can collect, a doubt is entertained whether the monitorial plan is adapted to small schools in the country, or to the higher branches of education. The means of instruction in the ordinary mode must be provided. The colleges and academies ought to furnish competent instructors, and indeed to them we are indebted, but chiefly to the academies, for the qualified instructors now employed. While academies are instituted, and by proper encouragement may supply our wants, the committee would doubt the policy of establishing central schools in their vicinity, which would necessarily divert from them much of their present support." After referring to the location of the several academies in different parts of the state, with the view of showing that in this respect they were capable of meeting the wants of the community, and that but few portions of the state were not adequately supplied with these institutions, provided they were suitably encouraged, the report proceeds to recommend a different standard of apportionment than the one in operation, and an increase of the fund, specifically for the purpose of encouraging the preparation of a class of students, who might serve as teachers of the common schools. "The income derived from the literature fund, they propose in the bill herewith reported, shall be distributed among the academies in proportion to the number of students pursuing the classical studies and the higher branches of an English education; and their object is to promote the education of young men in those studies which will prepare them for the business of instruction, which it is hoped may be accomplished to some extent, by offering inducements to the trustees of academies to educate pupils of that description." "These are the considerations which have guided the committee in preparing the bill now presented. They have only further to say, that if any confidence can be reposed in the official communications of those officers of the government whose duty it is to give the legislative information on this subject, if the concurring testimony of all who have spoken or written concerning it can be relied upon, there is a radical, deep, and extensive defect in our common school system, which deprives it of much of its value; and that defect consists in the want of competent instructors. From six to ten years of the most valuable portion of human life—of that very period when instruction is most easily imparted and most firmly retained, is absolutely wasted and thrown

away. Every one in the least acquainted with the subject knows that a boy, under proper instruction, can, and ought to know as much at seven or eight years old, as he acquires under the present system at fourteen or sixteen. Having undertaken a system of public instruction, it is the solemn duty of the legislature to make that system as perfect as possible. We have no right to trifle with the funds of our constituents by applying them in a mode which fails to attain the intended object. Competent teachers of common schools must be provided: the academies of the state furnish the means of making that provision. There are funds which may be safely and properly applied to that object; and if there were none, a more just, patriotic, and in its true sense, popular, reason for taxation cannot be urged. Let us aid the efforts of meritorious citizens, who have devoted large portions of their means to the rearing of academies; let us reward them by giving success to their efforts; let us sustain seminaries that are falling into decay; let us revive the drooping and animate the prosperous by the cheering rays of public beneficence; and thus let us provide nurseries for the education of our children, and for the instruction of teachers who will expand, and widen, and deepen the great stream of education, until it shall reach our remotest borders, and prepare our posterity for the maintenance of the glory and prosperity of their country."

From the annual report of the Superintendent for this year, it appeared that there were 8,114 organized school districts in the state—341 new districts having been formed during the preceding year; that returns had been received from 7,544 of these districts, in which 431,601 children had been taught during the year reported, being an increase over the number so taught the preceding year, of 13,864; that the whole number of children residing in the state, between the ages of five and fifteen, was 411,256.

Speaking in reference to the practical operation of the existing system of visitation and inspection of the common schools, the Superintendent holds the following language: "The system of inspection might be improved, by the appointment of competent persons to visit the schools of a county, or larger district; to investigate the mode of instruction, the qualifications of teachers, the application of the public money, and to inquire into all the operations of the school system. Such inspectors would aid the schools by their advice, and add to the stock of intelligence on the subject of education, by collecting information in relation to the condition of the schools, and the manner in which they are conducted; and these inspections would be the means of more effectually ascertaining what the common schools now effect, and what they may be made to accomplish." The results of the subsequent adoption of this plan, in sub-



stance, has effectually vindicated the prescience of the Superintendent, in this respect. The report goes on to recommend, first, "the establishment of schools in the several counties for the education of teachers;" and second, "the gradual introduction of the system of mutual instruction." The improvement of the system of female education is also adverted to, as well as the propriety of furnishing the schools with a judicious selection of text books. "The course of instruction in the common schools ought to be adapted to the business of life, and to the actual duties which may devolve upon the person instructed. In a government where every citizen has a voice in deciding the most important questions, it is not only necessary that every person should be able to read and write, but that he should be well instructed in the rights, privileges and duties of a citizen. Instruction should be co-extensive with universal suffrage."

The sum of \$100,000 was this year apportioned by the Superintendent among the several school districts in pursuance of the provisions of an act passed the preceding year, authorizing the annual distribution of this amount from the common school fund. The several laws relating to common schools were also revised by the legislature and republished, with the necessary expositions and instructions from the department.

Gov. Clinton, in his message at the opening of the session of 1828, again adverts to the subject of common school education, in the following terms:

"That part of the revised laws relative to common schools is operative on this day, and presents the system in an intelligible shape, but without those improvements which are requisite to raise the standard of instruction, to enlarge its objects, and to elevate the talents and qualifications of the teachers. It is understood that Massachusetts has provided for these important cases; but whether the experiment has, as yet, been attended with promising results, is not distinctly known. It may, however, be taken for granted, that the education of the body of the people can never attain the requisite perfection without competent instructors, well acquainted with the outlines of literature and the elements of science. And after the scale of education is elevated in common schools, more exalted improvements ought to be engrafted into academical studies, and proceed in a correspondent and progressive ascent to our colleges.

"In the mean time I consider it my duty to recommend a law authorizing the supervisors of each county to raise a sum, not exceeding two thousand dollars, provided the same sum is subscribed by individuals, for the erection of a suitable edifice for a monitorial high school in the county town. I can conceive of no reasonable objection to the adoption of a measure so well calculated to raise the character of our schoolmasters, and to

double the powers of our artisans, by giving them a scientific education."

From the annual report of the Superintendent, it appeared that the number of school districts had increased to 8,298, from 7,806 of which returns had been received, showing that the whole number of children between the ages of five and fifteen in the districts, was 419,216; and that the whole number taught in the common schools during the year reported, was 441,856; being an increase of 10,225 since the preceding year, and of 301,750 since 1816. The aggregate amount of public money received and expended by the several districts, in the payment of the wages of duly qualified teachers, was \$222,995.77; of which \$100,000 was paid from the state treasury, \$110,542.32 raised by tax upon the several towns and counties, and \$12,453.45 derived from local funds.

The productive capital of the school fund was increased during the year reported, \$256,121.50, by the transfer of \$33,616.19, the balance due on the loan of 1786 to this fund; and of \$100,000 of bank stock owned by the state; by the avails of the premiums received on the sale of the stock of the Hudson and Delaware canal company, amounting to \$31,156.50; and by the sale of lands owned by the state at Oswego, by which \$91,349 were realized for the benefit of the fund.

The Superintendent recommends the affording additional facilities for common school instruction to children engaged in manufacturing establishments; and suggests the appropriation by the commissioners of common schools, of a portion of public money to each such establishment, according to the number of children to be benefited by instruction.

In 1829, the number of common schools had increased to 8,609, from 8,104 of which returns were received by the Superintendent. The number of children between five and sixteen years, residing in the several districts from which reports had been received, was 440,113; and the number of children taught during the year reported, was 468,205; being an excess of 26,349 over the preceding year.

In 1830 the number of districts was 8,872; reporting, 8,292; in which were 468,257 children between the ages of five and sixteen; and 480,041 children taught; being an increase of 11,836 during the year reported. The Superintendent, in his annual report, adverts to the "serious deficiency in the supply of competent teachers," as "the great obstacle which it is necessary to remove before we can reasonably expect to accomplish the great result, and confer the enduring benefits which were anticipated by those who founded and those who have fostered our system of common school instruction." "Those who have turned their attention to the subject of giving a higher character to the common schools, in this, as well as in other

states," he continues, "have recommended the establishment of seminaries for the exclusive education of teachers. This would serve to multiply the number of those who would be qualified to teach; but after being thus qualified at the public expense, what guaranty would there be that such persons would follow the business of teaching, unless they could be as liberally compensated in a district school as in the other pursuits of life? If the inhabitants of the districts were resolved to have none other than teachers of the highest grade, and would pay the highest premium for talent, our academies and high schools would be thronged by persons fitting themselves for the business of teaching; and all these institutions would practically become schools for the education of teachers. If the districts could be induced to give an adequate compensation, and constant employment to first rate instructors, then it would be eminently useful to establish seminaries for the special purpose of training persons as professional instructors." "To secure permanent teachers, it is indispensable that the inhabitants of the districts should afford such reasonable compensation and constant employment as will induce persons of good talents to devote themselves to the business of teaching as a profession." "If the intelligent farmers in the districts would apply a small share of their attention and practical common sense to this subject, a revolution in the character of the schools would soon be effected."

The Superintendent also adverts to the multiplicity of text books in use in the several schools, but expresses the opinion that the designation of any particular work or series of works, to the exclusion of all others, would be attended with injurious consequences, not only to the schools themselves, but to the cause of education generally. He remarks that "great improvements are constantly going on in the character of school books; the greatest experience, and much of the best talent of the country is enlisted in this business; and the fruits of their labors are constantly giving them new claims to the approbation of the public. The adoption of a particular book would amount to a prohibition upon all improvements, and would subject the inhabitants to a loss of the prohibited books then on hand. The interests of the common schools may be seriously injured, and cannot be essentially benefited, by the adoption by law of any book or set of books."

The following is the earliest specific suggestion, looking to the establishment of district libraries, which I have been able to find. It is contained in Mr. Flagg's report for this year, (1830.)

"A society has been established in England, for the purpose of imparting useful information to all classes of the community, particularly to such as are unable to avail themselves of expe-

rienced teachers. To effect this object, treatises on the various sciences, and books of practical utility have been published at such moderate prices, as to bring them within the reach of all classes. A small sum applied to the publication and distribution among the several school districts, of similar works, would have the most favorable influence."

It will have been perceived, however, that Gov. Clinton, in his message at the opening of the session of 1827, called the attention of the legislature to the expediency of providing "small and suitable collections of books and maps," to be attached to the common schools.

Gov. Throop, in his message to the legislature, at the opening of the session of 1831, thus alludes to this great interest of the state:

"There is no one of our public institutions of more importance, or which has better fulfilled public expectation, than that providing for instruction in common schools. The large fund appropriated to that object has produced a complete organization throughout the state; and although the system has had to encounter all the obstacles to a new enterprise of such magnitude in its operations and objects, yet it has been well seconded by public zeal and liberality. Its imperfections may receive some correction from legislation, yet more is to be hoped from individual exertions, to carry the design of the legislature into effect within the several districts."

From the annual report of the Superintendent, for this year, it appears that the whole number of districts was 9,062, from 8,630 of which reports had been made in accordance with law; that the number of children between the ages of five and sixteen, residing in the several districts from which such reports had been received, was 497,503; and the number of children taught therein during the year reported, 499,434; being an increase of 19,333 over the number so taught the preceding year. The aggregate amount of public money received and expended in the several districts, for the payment of the wages of duly qualified teachers, was, \$239,713.00; of which \$100,000 was paid by the state from the common school fund; and the residue derived from a tax on the several towns, and from local funds. In addition to the public money, there was paid by the inhabitants of the several districts, on rate bills for teachers' wages, \$346,807; making a total of \$586,520 paid for teachers' wages alone. The average annual increase of the number of scholars instructed in the common schools, during the preceding eleven years, was 20,000.

The productive capital of the common school fund, amounted at this time to \$1,696,743.66; and the revenue actually received into the treasury, on account of this fund, during the year 1830, exceeded the sum required for apportionment among the seve-

ral districts by \$678.60; it being the first year in which the revenue had produced the sum requisite for this purpose.

The Superintendent in this report, examines and discusses at considerable length the various plans for the education of teachers; and recommends the conversion of the several academies, equal in number at that period to the counties in the state, into seminaries for training teachers. On this subject he remarks: "The state has done much for these schools, and something in aid of the cause of the common schools may reasonably be expected from them; and if the required information to fit a person for teaching can be obtained in the present institutions, sound policy and good economy are in favor of relying upon them for the training of teachers." He adverts in this connection to the proposition presented to the legislature at its preceding session, by a committee of the citizens of Rochester, for the establishment of a state seminary for the education of teachers, and a town central school in each town in the state, as a document exhibiting "much research and attention to the subject of common school instruction." In this memorial (legislative documents, 1830, volume iv. no. 387,) the committee, (Messrs. Penney, Comstock, Brown, Ward and Norton,) after recapitulating the prominent defects in the existing condition of common school education, submits a plan, designed

"1. To furnish a competent supply of well qualified teachers.

"2. To diffuse the benefits of good teaching, at an early period through all the districts in the state, and to accomplish the intention of the law as to an efficient inspection.

"3. To secure such a degree of respect and compensation to teachers, as to induce men of good talents and qualifications to make teaching a profession for life; and

"4. So to organize and govern the whole system of common school education as sufficiently to protect this great interest from every kind of abuse, and to cherish it for the various useful ends it may be made to serve.

"It is proposed to effect the first of these objects by the establishment of, say three state seminaries, for the education of teachers; the second, by promoting the erection of one central school of the most approved description in each town, having the duties and services of its teacher so connected with all the other districts of the town as to secure the object of good teaching to all, and gradually to qualify good teachers for the whole." The particular details of the plan were also presented under the five following general heads:

"1. Of the proper qualifications of a teacher.

"2. Of a state seminary for educating teachers—its government—its course of instruction—admission of students—their diplomas and privileges.

"3. Of the town central schools—their government, &c.

"4. Of an annual meeting of the faculties, and report on school books, &c.

"5. Of the government and general superintendence of the whole."

The great length of this document precludes its insertion here. It is, however, well worthy of a deliberate and attentive examination, in the present advanced stage of educational science; and its sound suggestions and practical views commend it to the favorable regards of all desirous of elevating and expanding to their utmost practicable limits, the capabilities of our unrivalled system of public instruction. The condition of the common school fund at the period when these views were presented, interposed an insuperable obstacle to the adoption of the plan proposed. This objection has now to a great extent disappeared; and it is believed that a sound and enlightened public sentiment would sustain the public authorities in carrying into execution, with such modifications and improvements as experience has subsequently brought to light, the recommendations and suggestions of the memorialists, at least so far as a state seminary for the preparation of teachers is concerned. The Superintendent, in his report for the present year, also examines and discusses the question, how far the expenses of supporting and maintaining the common schools, and supplying them with competent teachers, may advantageously be provided from the public funds of the state, and to what extent they may safely and successfully be committed immediately to the inhabitants of the several districts. He compares the operation of our system, in this respect, with those of Pennsylvania, Virginia, Connecticut, and other states, in the two former of which the public funds were exclusively appropriated to the benefit of the children of indigent inhabitants of the several districts, and in Connecticut, were lavished with an indiscriminate profusion, furnishing ample means for the gratuitous instruction of all classes.

"Our system" he observes, "is well calculated to awaken the attention of all the inhabitants to the concerns of the district school. The power given to district meetings to levy a tax, to a limited extent, upon the property of the district, excites a direct interest with all the taxable inhabitants to attend the district meetings, whether they have children requiring school accommodations or not. The wealthy are thus prompted to act as trustees, and to watch over the concerns of the district, in order to see that its affairs are conducted with care and economy; and much of the intelligence of the district is put in requisition by the peculiarity of our plan, which might be wholly lost to the districts if the whole expense of the tuition was provided by a state fund." "It has been urged," he remarks, in another place, "that the amount distributed from

our fund is too small, and that an increase of the fund would, of itself, raise the standard of the common schools; but an increase of the school moneys would be much more likely to decrease the contributions of individuals, than to elevate the standard of the common schools." At this period the amount of public money apportioned by the state for the payment of teachers' wages in the several districts, was \$100,000; while the amount raised on rate bills was \$346,807. The annual report of the Superintendent for 1844 shows that while the amount of public money received from the state treasury applicable to the same purpose, was \$220,000, the amount paid on rate bills was \$509,376.97 only; being \$254,000 less than a proportionate amount under the increased fund contributed by the state.

On the subject of a proposed uniformity of text books in the several schools, the Superintendent remarks, "no man or set of men could make out a list of class books for the instruction of half a million of scholars, which would give general satisfaction; and there is great reason to believe that the experiment to produce uniformity would do more harm than it promises to do good. In view of all the difficulties which surround this subject, the Superintendent believes that it is best to leave the selection of class books to the intelligence of the inhabitants of the districts and towns." In support of these views he refers to a very able report of the literature committee in the assembly, made the preceding year, and which will be found in the fourth volume of the legislative documents of that year, (No. 431,) of 1830.

In conclusion, the Superintendent observes:

"The immense importance of elevating the standard of education in the common schools is strongly enforced by the fact, that to every ten persons receiving instruction in the higher schools, there are at least five hundred dependant upon the common schools for their education. In urging the importance of common schools, it is not designed to depreciate the great utility of those of a higher grade. In the discussions on the subject of popular education, it has in some cases been urged that academies and high schools were injurious to the common schools, by withdrawing from the aid of the latter, the patronage and care of those who are able to send to the former schools. There is nothing in our experience which should induce us to look with disfavor upon the higher schools, and the patriot and philanthropist, in estimating the means which are to contribute to the perpetuity of our happy form of government, will regard all our schools and seminaries as parts of the same useful and valuable system, from the university to the infant school."

In 1832, the number of school districts had increased to 9,333, from 8,835 of which reports were received. The whole number of children between five and sixteen years of age

residing in the several reporting districts, was 504,685; and the number taught during the preceding year, was 497,257; being an increase of 7,463 since the last report.

"The school system of New-York," remarks the Superintendent, "has been formed by combining the advantages of the different plans of supporting common schools which prevail in the New-England states. Connecticut has a large fund which produces nearly or quite the amount paid for teachers' wages, and they have no local tax. Massachusetts and Maine have no public fund, and the wages of teachers are provided by a town tax. Our system happily combines the principles of a state fund and a town tax; enough is apportioned from the state treasury to invite and encourage the co-operation of the districts and towns; and not so much as to induce the inhabitants to believe that they have nothing more to do than to hire a teacher to absorb the public money. The tax authorized upon the property of the town and district has a most salutary effect in awakening the attention of the inhabitants to the concerns of the common schools. The power of district meetings to raise money by tax, induces the inhabitants to attend the meetings, and to overlook the interests and proceedings of the district; when, if the whole expense was provided by a state fund, they would allow the trustees to receive and expend the money, as if it was a matter which did not interest the great body of the inhabitants of the district. Whatever differences of opinion may exist as to the best mode of providing for the expense of giving instruction to all the children of the state, the success which has attended our system warrants the conclusion that a public fund may be made eminently useful in organizing a system of universal instruction. The apportionment of a few dollars is often the immediate inducement for neighborhoods to establish schools where none existed before, and for prompting new settlements to erect school houses, at an earlier period than they otherwise would have done, in order to participate in a fund, however small, which they know is enjoyed by other districts in their town."

In relation to the "vexed question" of text books, the Superintendent renews the expression of his opinion "that the adoption of a particular set of class books could be of no advantage except to the favored authors, to whom the monopoly of supplying the scholars should be given. Towards all other authors, who have devoted their time and talents to the preparation of books, as well as publishers who have embarked their fortunes in particular works, it would operate proscriptively and with manifest injustice."

In his message at the opening of the session of 1833, Gov. MARCY thus adverts to the subject of common schools:



"Of all our institutions, there is none that presents such strong claims to the patronage of the government as our system of common schools; and it is gratifying to know that these claims have been recognized, and to a very considerable extent, satisfied. The wisdom and providence of our legislation appears perhaps no where so conspicuously, as in the measures which have been adopted, and the means which have been provided for the general diffusion of primary education among the children of all classes of our citizens." After adverting to the information contained in the annual report of the Superintendent relative to the condition and prospects of the common schools, the governor proceeds: "An active and adventurous spirit of improvement characterizes the present age. Its best direction would seem to be towards multiplying the facilities, and consequently abridging the time and labor of acquiring knowledge. I indulge the hope that much may yet be done in this respect for primary education. One of the most obvious improvements in relation to common schools, would be a plan for supplying them with competent teachers. Under present circumstances, the remedy to the evils resulting from the employment of persons not properly qualified, can only be applied by the trustees and inspectors; and I am not apprised that any further direction for regulating their duties in this respect, could be usefully presented to the legislature."

From the annual report of the Superintendent it appeared that in 1833, the number of school districts had increased to 9,600; from 8,941 of which reports were received, in which there were 508,878 children between five and sixteen years of age, and 494,959 children taught during the year reported; being a decrease of 2,146 since the preceding year. The Superintendent renews the expression of his conviction that the academies are adequate to the supply of competent teachers for the common schools. He also again calls the attention of the legislature to the expediency of making some suitable provision for the education of the children of persons engaged in the various manufacturing establishments of the state.

"The policy of all our laws," he observes, "is to secure a good common school education to every child in the state; and the condition of the children who are employed in the manufactories, as to their means of instruction, ought to be carefully inquired into and provided for. The diffusion of education among all classes of our population is deemed of such vital importance to the preservation of our free institutions, that if the obligations which rest upon every good citizen in this particular are disregarded, the persons having the custody of such children ought to be visited with such disabilities as will induce them, from interest if not from principle, to cause the children to be instructed, at least in reading, writing, and arithmetic.

Intelligence has been regarded as the vital principle of a free government, and every parent, guardian or master, who neglects or refuses to give the children under his charge the advantages of a common school education, particularly in cases where the instruction is offered "without money and without price," is as much an offender against the state, as the man who refuses to perform any other duty which is deemed essential to the preservation of our liberties."

On the 15th day of January, 1833, JOHN A. DIX was appointed secretary of state and Superintendent of Common Schools, Mr. Flagg having been promoted to the office of comptroller. During the administration of the latter, a period of seven years, the number of school districts in the state had increased from 7,773 to 9,600; the number of children instructed in them, from 425,586 to 494,959, and the proportion of the number of children taught to the whole number residing in the several districts, from 100 to 93, to 250 to 249. The amount of public money annually appropriated for the payment of the wages of approved teachers, had increased from \$182,790.09 to \$305,582.78. The external organization and internal details of the system had received the fostering care and enlightened attention of the most practical and discriminating minds of the state; and the unequalled rapidity with which districts sprung up in every section of the state, and children of all ages and classes were gathered into the common schools, sufficiently indicate the general appreciation of the advantages and merits of the system, on the part of the people generally. To untiring industry and great efficiency, Mr. Flagg united an eminently practical mind, which enabled him, in the midst of numerous and plausible projects for the elevation and improvement of the system of popular education, to select and recommend those only which promised the realization of the hopes and aspirations of the sound and judicious friends of the common schools; and accordingly, while steadfastly setting his face against the adoption of an uniform series of text books, and of a state seminary for the instruction of teachers, as impracticable in the existing state of things, he strongly urged the adoption of a more efficient and vigorous system of inspection and supervision, and several years in advance of any direct movement on the subject, recommended the publication and distribution of suitable books for the diffusion of useful knowledge, among the several school districts of the state.

During his administration of the common school department, the foundations were laid of those equitable principles upon which the various controversies growing out of the several school laws, were adjusted by the decisions of the Superintendent. Up to this period, no records of the adjudications of this office had been kept; and the various questions almost daily

presented for settlement had been determined upon their specific merits, without apparently any attempt to reduce the system to unity and harmony, or to establish and maintain general principles of interpretation and decision. The decisions of Mr. Flagg, and his successor, Gen. Dix, were, in 1837, collected by the latter and published, for the benefit of the several officers connected with the administration of the system throughout the state; and they have not only served as a basis for the determination of the numerous and complicated questions which have since arisen, but have exercised a highly beneficial influence upon the councils and proceedings of the officers and inhabitants of the several districts; by repressing litigation, by defining the powers, privileges and responsibilities of those called to the performance of any duty in relation to the common schools, and by the introduction and settlement of fixed principles of interpretation, applicable to almost every emergency likely to arise in the practical operation of the system.

From the first annual report of Gen. Dix as Superintendent of Common Schools, made on the 8th of January, 1834, it appeared that there were 9,690 school districts in the state, from 9,107 of which reports had been made in accordance with law. The number of children between the ages of five and sixteen, residing in the several districts from which reports were received, was 522,618; and the whole number of children taught in the several district schools, was 512,475; being an increase of 17,516 over the number thus instructed during the preceding year. In reference to the amount of the public funds provided for the support of common schools, the Superintendent expresses his opinion that the sum (\$100,000) distributed among the several districts, was as great as was necessary to accomplish every object of such a distribution. "Experience in other states," he observes, "has proved what has been abundantly confirmed by our own, that too large a sum of public money distributed among the common schools has no salutary effect. Beyond a certain point, the voluntary contributions of the inhabitants decline in amount with almost uniform regularity as the contributions from a public fund increase." "Should the general fund at any future day be recruited so as to admit of an augmentation of the capital or revenue of the common school fund, or both, the policy of increasing the sum annually distributed to the common schools, beyond an amount which shall, when taken in connexion with the number of children annually taught in them, exceed the present rate of apportionment, would be in the highest degree questionable."

With respect to the preparation of teachers for the common schools, the Superintendent concurs generally in the views of his predecessor, that the several academies in the state, aided by liberal appropriations for this purpose from the literature

fund, are abundantly adequate to the accomplishment of the object in view; that the establishment of one or more teachers' seminaries, devoted exclusively to this object, would be impracticable without requiring the districts not only to employ such teachers when prepared, but to provide them with an adequate compensation—neither of which measures would for a moment be tolerated; and that the demand on the part of the districts for teachers of a higher degree of qualification will be met by a corresponding supply from the academies, whenever sufficient inducements are held out to the latter to devote a large portion of their attention to the preparation of such teachers. An enlightened appreciation, on the part of inhabitants of districts generally, of the functions and responsibilities of teachers—a determination to secure the highest order of talent, and to provide an adequate compensation—and a disposition to elevate the character and advance the social rank of the teacher, by assigning him that station in the regards of the community which is due to the dignity and utility of his profession: these are regarded as indispensable pre-requisites to the success of any system which contemplates the specific preparation of teachers.

On the subject of the adoption of a uniform series of text books for the use of the schools, the Superintendent also adopts the views of his predecessors, discountenancing such a measure as impracticable and unjust.

In reference to the establishment of **DISTRICT LIBRARIES** the Superintendent observes:

"If the inhabitants of school districts were authorized to lay a tax upon their property for the purpose of purchasing libraries for the use of the district, such a power might, with proper restrictions, become a most efficient instrument in diffusing useful knowledge, and in elevating the intellectual character of the people. A vast amount of useful information might in this manner be collected, where it would be easily accessible, and its influence could hardly fail to be in the highest degree salutary, by furnishing the means of improvement to those who have finished their common school education, as well as to those who have not. The demand for books would ensure extensive editions of works containing matter judiciously selected, at prices which competition would soon reduce to the lowest rate at which they could be furnished. By making the imposition of the tax wholly discretionary with the inhabitants of each district, and leaving the selection of the works under their entire control, the danger of rendering such a provision subservient to the propagation of particular doctrines or opinions would be effectually guarded against by their watchfulness and intelligence."

By an act of the legislature passed this year, the surplus income of the literature fund, beyond the sum of \$12,000, was placed at the disposal of the Regents of the University, to be by them distributed to such of the academies subject to their visitation as they might select, and to be devoted exclusively to the education of common school teachers. The funds thus appropriated were estimated at about \$3,000 per annum.

At the opening of the session of 1835, Gov. Marcy, in his message, commended to the special attention of the legislature the adoption of "a provision for supplying competent teachers,

improvements in the method of instruction, and the faithful and economical application of the funds to such objects and in such a manner as will insure the best results." He observes, "In regard to the common schools, considering their great importance in a political and moral point of view, the efforts of the legislature should not be intermitted until the system shall be so improved as to secure to the children of all classes and conditions of our population, such an education as will qualify them to fulfil in a proper manner, the duties appertaining to whatever may be their respective pursuits and conditions of life."

The number of school districts at this period had increased to 9,865; the whole number of children between the ages of five and sixteen, to 534,000; and the number taught in the several districts from which reports had been received, to 521,240, or 18,256 more than were so instructed during the preceding year.

The following extract from the annual report of the Superintendent, transmitted to the legislature on the 7th of January of this year, will exhibit the views of that officer in reference to the adequacy of the academies to furnish the common schools with a competent supply of duly qualified teachers, and also in reference to the relations which the various institutions for the promotion of public instruction should sustain to each other:

"If the foundations of our whole system of public instruction were to be laid anew, it would, perhaps, be advisable to create separate seminaries for the preparation of teachers, although from the nature of our institutions, it might be deemed arbitrary, if indeed it were practicable, to compel the school districts to employ them. It would be equally difficult, without a great augmentation of the school fund, to present to the districts a sufficient pecuniary inducement to engage the individuals thus prepared; and it may be safely assumed that nothing short of a thorough conviction in the public mind, that common school teachers are in general incompetent to the proper fulfilment of their trusts, and that the standard of education is extremely imperfect, would accomplish the object. If that conviction can now be created, the existing evils may readily be redressed. Our common school system is so perfectly organized, and administered throughout with so much order and regularity, and so many academies under able management are already established, that it would seem the part of wisdom to avail ourselves of these institutions, to the extent of their capacity, for the purpose of training teachers for the common schools. Their endowments, their organization, the experience and skill of their instructors, and their whole intellectual power, may be made subservient to the public purpose in view, and with the aid which the state can lend, much may be effected. But whatever differences of opinion may prevail with regard to the foundation of this plan, in sound policy, the question has been settled by the legislature, and it remains only to carry it into execution with proper energy. Should it prove inadequate to the ends proposed, a change of plan may then be insisted on, without being open to the objection of abandoning a system which has not been fairly tested.

"It may not be improper to remark in this place, that the necessary connexion which exists between our common schools and the literary institutions of the state, including those of the highest grade, has been too frequently overlooked. The academies have already been, in effect, without receiving from the state any direct pecuniary aid for the purpose, nurseries for common school teachers. The great body of those who have either temporarily or permanently devoted themselves to teaching, have been prepared at the academies with a view to that occupation, or to some professional employment. The instructors in the academies have in their turn been educated in the colleges; and but for the latter or some other system of classical and scientific education, as a substitute for the course of training pursued in the colleges, the academies would obviously be destitute of the necessary supply of tutors. Thus all our incorporated literary institutions minister to the improvement of the common school system, on which the great body of the people are dependant for their education."

The Superintendent, after adverting to the defective state of the systems of instruction in common schools, proceeds at considerable length to combat the idea that "the education which an individual receives, should be designed exclusively to fit him for the particular employment which he is destined to pursue." "The attention of the great body of the people" he justly remarks, "should be directed to objects beyond the sphere of the employments on which they depend for their support." "Knowledge carries with it influence over the minds of others, and this influence is power. In free governments—what is of more vital concern—it is political power." And he illustrates these views by a reference to the range and importance of the duties devolving upon every American citizen.

On the 8th of January, 1835, Gen. Dix, as chairman of a committee of the Regents of the University, appointed to prepare and report a plan for the better education of teachers of common schools, submitted an elaborate and able report recommending the establishment and organization of a teachers' department, to be connected with one academy to be designated by the Regents, in each of the eight senatorial districts of the state; indicating the course of study to be pursued in such departments; and suggesting for the consideration of the Regents the academies to be selected for this purpose, which should each receive annually the sum of \$400 from the fund applicable to this object. The report was agreed to by the Regents, and Erasmus Hall Academy in Kings county, Monticenery Academy, Orange county, Kinderhook, St. Lawrence, Fairfield, Oxford, Canandaigua, and Middlebury academies were designated for the establishment of these institutions, on the basis and subject to the restrictions and regulations indicated in the report.

On the 13th of April of this year, the foundations of the District School Library were laid by an act authorizing the taxable inhabitants of the several school districts to impose a tax not exceeding twenty dollars for the first year, and ten dollars for each succeeding year, "for the purchase of a district library, consisting of such books as they shall in their district meeting direct."

On the 6th of May, Mr. WETMORE, of New-York, chairman of the literature committee of the house, made a very able report, concluding with a recommendation for the establishment of a separate "Department of Public Instruction," under the superintendence of an officer to be known as "Secretary of Public Instruction," to be appointed by the legislature triennially, in the same manner with other state officers; who should possess the powers and discharge the duties of Superintendent of Common Schools, and be ex-officio Chancellor of the Regents of the University, &c. The several colleges and academies of



the state were to be subject to his visitation; and he was required particularly to visit and inspect those academies in which departments for the education of teachers were established. No definite action was however had on this proposition, by the legislature.

The following is an extract from Gov. Marcy's message at the opening of the session of 1836:

"In a government like ours, which emanates from the people, where the entire administration, in all its various branches, is conducted for their benefit and subject to their constant supervision and control; and where the safety and the perpetuity of all its political institutions depend upon their virtue and intelligence, no other subject can be equal in importance to that of public instruction, and none should so earnestly engage the attention of the legislature. Ignorance, with all the moral evils of which it is the prolific source, brings with it also numerous political evils, dangerous to the welfare of the state. It should be the anxious care of the legislature to eradicate these evils by removing the causes of them. This can be done effectually, only by diffusing instruction generally among the people. Although much remains here to be done in this respect, the past efforts of legislation upon the subject merit high commendation. Much has been already accomplished for the cause of popular education. A large fund has been dedicated to this object, and our common school system is established on right principles. But this is one of those subjects for which all cannot be done that is required, without a powerful co-operation on the part of the people in their individual capacity. The providing of funds for education is an indispensable means for attaining the end; but it is not education. The wisest system that can be devised cannot be executed without human agency. The difficulty in the case arises, I fear, from the fact that the benefits of general education can only be fully appreciated by those who are educated themselves. Those parents who are so unfortunate as not to be properly educated, and those whose condition requires them to employ their time and their efforts to gain the means of subsistence, do not, in many instances, sufficiently value the importance of education. Yet it is for their children, in common with all others, that the common school system is designed; and until its blessings are made to reach them, it will not be what it ought to be. If parents generally were sensible of the inestimable advantages they were procuring for their children by educating them, I am sure the efforts and contributions which are required to give full efficiency to our present system would not be withheld. If I have rightly apprehended the indications of public opinion on this subject, a more auspicious season is approaching. At this time, a much larger number of individuals than heretofore are exerting their energies and contributing their means, to impress the public mind with the importance of making our system of popular instruction effective in diffusion its benefits to all the children in the state. I anticipate much good from the prevalence of the sentiment that the efforts of individuals must co-operate with the public authorities to ensure success to any system of general education."

From the annual report of the Superintendent, it appeared that the number of districts had increased to 10,132; the number of children between the ages of five and sixteen, to 543,000; and the number taught in the several districts from which reports had been received, to 541,400, being an increase of over 10,000 from the preceding year. The Superintendent repeats the expression of his conviction, "that a school fund so large as to admit of a distribution of money to the common schools in any degree approaching the amount expended for their support, would be likely to be injurious rather than beneficial. A school fund," he observes, "can only be useful when its revenue is sufficient, and no more than sufficient, to operate as an inducement to the inhabitants of school districts to contribute liberally to their support." "It is, from the nature of the subject, impossible to fix the exact limit, below which a reduction of the sum distributed (including the amount raised by taxation in

the several towns) would cease to operate as an inducement to the inhabitants to assume the residue of the expenses of maintaining the schools, or beyond which its increase would render their burdens so light as to create inattention to the concerns of the districts. It may, however, be safely assumed, that, at any point between forty and fifty cents per scholar, it is not probable that either of these evils would be felt; and that its augmentation above the maximum, on the one hand, or its reduction on the other, below the minimum above named, ought to be avoided, if practicable." The effect of the increase of the sum so distributed to eighty-four cents per scholar, during the past six years, has certainly, it may here be remarked, by no means impeached the soundness and accuracy of this proposition; the extent to which the schools have improved being clearly attributable to other and more potent influences than the augmentation of the public funds applicable to their support.

At the opening of the session of 1837, Gov. Marcy again brought the subject of common school education before the legislature, in connection with the act of congress of the preceding year, authorizing the deposit of the share belonging to this state, of the surplus revenue of the United States, with the state for safe keeping, until required by the general government. He recommended the appropriation from the income of this fund, of an amount equal to the sum annually distributed to the common schools, to be applied to the same purpose, viz. the payment of the wages of duly qualified teachers; making the annual distribution for this purpose, \$220,000—a liberal appropriation to the academies, "having in view principally the design of rendering them more efficient as seminaries for educating common school teachers—and the addition of the residue of such income to the capital of the common school fund. He also recommended the transfer of the general superintendence and supervision of the several academies of the state, from the Regents of the University to the secretary of state in his capacity of Superintendent of Common Schools, disapproving of the proposed erection of a separate department of public instruction, and suggesting the appointment of an additional deputy to aid the secretary in the performance of this portion of his official duties. He commends the efforts in progress for the promotion of popular instruction by the diffusion of education through all ranks of the people, and the devotion of talents and wealth to this great cause; and expresses his conviction, that aided by the powerful co-operation of the legislature, its advancement may confidently be anticipated.

The sum of \$110,000 was this year apportioned among the several school districts, the number of which had augmented to 10,207. The number of children between five and sixteen residing in the several districts from which reports had been



received, was 538,398; and the number instructed within the year, 532,167; being a diminution of 9,234 from the number instructed the preceding year. This diminution is accounted for by the Superintendent, "by the prevalence of an absorbing attention, in a considerable portion of the community, to their pecuniary interests rather than to the interests of education." "Strong excitements in the community," he observes, "especially when continued for a length of time, are in their nature unfriendly to the cause of education; and of such excitements none is perhaps so much so as that which is characteristic of periods when fortunes are amassed without effort and by the mere chances of speculation." "In the year 1834," he continues, "the common schools were in better condition, in all respects, than they had been at any previous time; and, as is well known, that year was distinguished by a serious depression in the business affairs of the country. The interests of education seem never to be better secured than in seasons when individuals are compelled to husband their resources, and when the highest as well as the most certain rewards are those which are the fruit of patient industry. No period seems less propitious to the promotion of those interests, than that season of delusive prosperity in which multitudes are tempted by a few instances of wealth suddenly acquired, to lay aside their accustomed avocations, and embark in the precarious pursuit of fortune."

In his message at the opening of the session of 1838, Gov. Marcy repeats his recommendations of the previous year in reference to the proper disposition of the revenue of the United States deposit fund, with the additional suggestion that a portion of this fund be devoted to the purchase of DISTRICT LIBRARIES, in such of the several school districts of the state as should raise by taxation an equal amount for that object. In reference to the departments for the education of teachers connected with the respective academies designated by the Regents of the University, he expresses the opinion, that however ably conducted, they must of necessity be inadequate to the supply of the requisite number of teachers for the common schools, and suggests the establishment of county normal schools, "on principles analogous to those on which our system of common schools is founded." An increase of the number of academies provided with teachers' departments, is also suggested, the additional expense to be defrayed from the revenue of the deposit fund.

The number of school districts had now increased to 10,345; the number of children between five and sixteen residing in the several districts from which reports were received, to 536,882 and the number taught was 524,188; showing a still further diminution of nearly 8,000 from the preceding year.

During this session the sum of \$160,000 was added from the annual revenue of the United States deposit fund, to the amount to be apportioned among the several school districts of the state ; of which \$55,000 was required to be expended by the trustees in the purchase of suitable books for a district library, and the residue for the payment of the wages of duly qualified teachers. An equal amount was also required to be raised by taxation on the several counties and towns, and applied to the same purpose. The residue of the income, after making certain appropriations to the colleges and academies, was added to the capital of the common school fund.

On the 7th of March, Mr. BARNARD, from the literature committee of the house, submitted a masterly and eloquent report upon the general subject of public instruction, to which we regret that our limits compel us only to advert. Many important and valuable suggestions for the extension and greater efficiency of our systems of popular education will be found embraced in this document. No specific action, however, in accordance with the recommendations of the report, was had.

At the opening of the session of 1839, Gov. SEWARD called the attention of the legislature, in an especial manner, to the interests of elementary public instruction ; expressing his conviction of the paramount necessity of elevating the standard of education ; recommending legislative co-operation in the furtherance of the effort to engraft the system of normal schools upon our institutions for education, through the agency of the academies ; strongly commending the district library system ; and urging the indispensable necessity of a more thorough and efficient visitation and supervision of our common schools.

By the annual report of the Superintendent, it appeared that the number of organized school districts in the state was, at this period, 10,583 ; the number of children between the ages of five and sixteen years, residing in the several districts from which reports had been received, 539,749 ; and the number of children under instruction, 528,913 ; exceeding by 4,725 the number instructed the preceding year.

In reference to the act of April, 1838, appropriating the income of the U. S. Deposit Fund to the purposes of education, the Superintendent observes :

“ The acts of April last, after making certain appropriations for the support of colleges, academies and common schools, from the income of the United States Deposit Fund, provides that the residue of that income shall be added annually to the capital of the common school fund. The income of the former fund will amount to nearly \$260,000 per annum, and the appropriations referred to amount to \$208,000, viz. : to the common schools, to be applied to the payment of teachers, \$110,000, and \$55,000 to the purchase of school district libraries ; to the

literature fund \$28,000, and to colleges \$15,000; leaving a balance of about \$50,000 to be applied to the increase of the last mentioned fund. Should this appropriation continue undisturbed, the capital of the common school fund will, by the year 1850, amount to about \$3,000,000, without any further provision for its increase; as the sales of lands belonging to it may be expected to yield two or three hundred thousand dollars."

On the subject of moral and religious instruction in the several schools, the Superintendent has the following sensible and judicious remarks:

"However desirable it may be to lay the foundations of common school education in religious instruction, the multiplicity of sects in this state would render the accomplishment of such an object a work of great difficulty. In the state of Massachusetts it is provided by law that no school books shall be used in any of the schools "calculated to favor any religious sect." In this state no such legal provision has been made; but the natural desire of every class of Christians to exclude from the schools instruction in the tenets of other classes has led to the disuse, by common consent, of religious books of almost every description, excepting the Bible and New Testament, which are used in more than one hundred towns as reading books. The spirit of jealousy by which the schools are surrounded, regarded as they are as most efficient instruments in the formation of opinions, will probably render this state of things perpetual: and it is of the greater importance, therefore, that moral instruction and training should constitute a principal branch of the system of education. No teacher can receive a certificate of qualification from the inspectors, unless they are satisfied as to his moral character. In this respect the inspectors cannot be too rigid in their scrutiny. A teacher whose moral sentiments are loose, or whose habits of life are irregular, is an unfit instructor for the young, whatever may be his intellectual acquirements, or his skill in communicating knowledge. The lessons of moral truth, which are taught at the domestic fireside, and the examples of moral rectitude and purity, which are there displayed, will be in danger of losing all their benefit, if the school-room does not reinforce them by its sanctions. If neither the atmosphere of the family circle, nor of the school, is free from impurity, to what other source can the young resort for those principles of morality which shall render their intellectual improvement subservient to useful purposes, and without which it might become an instrument to be wielded for the annoyance of their fellows, and for their own destruction? Though moral principles may have their origin in the heart, it is not to be expected that their proper development can be effected amid the perpetual counteraction of hostile influences. Moral cultivation should, therefore, be one

of the first objects of common school instruction. The great doctrines of ethics, so far as they concern the practical rules of human conduct, receive the intuitive assent of all; and with them may be combined instruction in those principles of natural religion, which are drawn from the observation of the works of nature, which address themselves with the same certainty to the conviction, and which carry to the minds of all observers irresistible evidence of the wisdom, the beneficence, and the power of their divine author. Beyond this, it is questionable whether instruction in matters of religious obligation can be carried, excepting so far as the school districts may make the Bible and New Testament class books; and there can be no ground to apprehend that the schools will be used for the purpose of favoring any particular sect or tenet, if these sacred writings, which are their own safest interpreters, are read without any other comment than such as may be necessary to explain and enforce, by familiar illustration, the lessons of duty which they teach. In connexion with this subject, it is highly gratifying to consider that the religious institutions of the country, reaching, as they do, the most sequestered neighborhoods, and the sabbath schools, which are almost as widely diffused, afford ample means of instruction in the principles and practice of the Christian faith. In countries where ecclesiastical affairs are the subject of political regulation, there is no difficulty in making religious instruction the foundation of education, by arrangements independent of the action of those whom it immediately concerns. But the policy of our law is, to leave the subject, where it may be most properly left, with the officers and inhabitants of the school districts."

In passing from the administration of Gen. Dix to that of his successor, it is scarcely necessary to observe, that the exertions of the former, during the six years in which the interests of the common schools were committed to his charge, to elevate and expand the system of popular education, were unsurpassed by any of his predecessors. The impress of his clear, discriminating and cultivated mind, was stamped upon every feature of that system; and the order, arrangement and harmony which pervaded all its parts, were due not less to the ceaseless vigilance of its supervision, than to the symmetry and beauty of the system itself. In 1837, Gen. Dix, under the authority of the legislature, collected together and published a volume of the decisions of his predecessor and himself, embracing an exposition of nearly every provision of the school act, and establishing, upon a permanent basis, the principles of future interpretation and decision, in reference to those provisions. The system of district school libraries was also organized and put into successful operation under his immediate auspices; and to his clear and convincing exposition of the

principles upon which this great institution was based, the ends it was designed to subserve, and the objects it was capable of accomplishing, a large share of the success which has attended its establishment, thus far, is unquestionably due.

On the 4th of February, 1839, the Hon. JOHN C. SPENCER was appointed secretary of state and Superintendent of Common Schools. Deeply impressed with the necessity of a more thorough and efficient supervision and inspection of the several schools, his first measure was to procure the passage of a law authorizing the appointment of a County Board of Visitors, whose duty it should be gratuitously to visit the common schools of their county, and to report to him the results of such examination, together with such suggestions for the improvement of these institutions as they might deem expedient. These visitors were selected from among the most intelligent citizens of the several counties, without distinction of party; and under specific instructions from the department, most of the common schools of the state were visited by them, and a mass of valuable information respecting their condition and prospects, accompanied by suggestions for their improvement, obtained and communicated to the legislature. With great unanimity the plan of a county supervision, through the medium of an officer to be appointed either by the Superintendent or by some local board, was urged upon the department and the legislature; and under the strong recommendation of the Superintendent, backed by the exertions of several of the most eminent friends of popular education, among whom may be enumerated the Hon. JAMES D. HAMMOND, who as early as 1835 had given to the public the details of a plan essentially similar; the Rev. Dr. WHITEHOUSE, of Rochester; FRANCIS DWIGHT, Esq., editor of the District School Journal, then of Geneva; Professor POTTER, of Union College; and JAMES WADSWORTH, Esq. of Geneseo, this project became, in 1841, by the nearly unanimous action of the legislature, incorporated with our system of common schools, and may in truth be regarded as its crowning glory.

In his message at the opening of the session of 1840, Gov. Seward thus adverts to the subject of elementary education:

"Although our system of public education is well endowed, and has been eminently successful, there is yet occasion for the benevolent and enlightened action of the legislature. The advantages of education ought to be secured to many, especially in our large cities, whom orphanage, the depravity of parents, or some form of accident or misfortune, seems to have doomed to hopeless poverty and ignorance. Their intellects are as susceptible of expansion, of improvement, of refinement, of elevation and of direction, as those minds which, through the favor of Providence, are permitted to develop themselves

under the influence of better fortunes; they inherit the common lot to struggle against temptations, necessities and vices; they are to assume the same domestic, social and political relations; and they are born to the same ultimate destiny.

"The children of foreigners, found in great numbers in our populous cities and towns, and in the vicinity of our public works, are too often deprived of the advantages of our system of public education in consequence of prejudices arising from difference of language or religion. It ought never to be forgotten, that the public welfare is as deeply concerned in their education as in that of our own children. I do not hesitate, therefore to recommend the establishment of schools in which they may be instructed by teachers speaking the same language with themselves, and professing the same faith. There would be no inequality in such a measure, since it happens from the force of circumstances, if not from choice, that the responsibilities of education are, in most instances, confided by us to native citizens, and occasions seldom offer for a trial of our magnanimity, by committing that trust to persons differing from ourselves in language or religion. Since we have opened our country and all its fulness, to the oppressed of every nation, we shall evince wisdom equal to such generosity by qualifying their children for the high responsibilities of citizenship."

From the annual report of the Superintendent it appeared that the whole number of organized school districts in the state was 10,706; the number of children between five and sixteen, residing in the several districts from which reports had been received, 564,790; and the number of children taught during the year reported, 557,229; showing an increase of 28,316 over the preceding year.

On the 13th of April, 1840, the Superintendent transmitted to the legislature the reports of the several Visitors of Common Schools appointed by him under the act of the preceding session, accompanied by a condensed abstract of their views and suggestions, together with a full exposition of his own, in reference to the various proposed improvements and modifications of the system. In relation to the inspection of the schools the Superintendent observes: "It has already been shown to the legislature, from the official returns, that at least one-half of all the schools in the state are not visited at all by the inspectors. The reports of the Visitors show that the examinations of the inspectors are slight and superficial, and that no benefit is derived from them. Many of the boards unhesitatingly recommend the abolition of the office." "The Superintendent is constrained to express his concurrence in the opinion expressed by several of the boards of visitors, that the office of town inspector of schools is unnecessary, and rather an incumbrance on the administration of the system." He recommends the appoint-

ment of Deputy Superintendents of common schools for each county, and expatiates upon the signal advantages to be secured to the interests of the common schools by the adoption of a system of visitation, at once so comprehensive and efficient. He dissents from the views of the visitors in reference to the expediency of establishing normal schools in each county, for the instruction and preparation of teachers; being of opinion that the existing system of academical departments for this purpose was preferable; and he accordingly concurs in the recommendation of his predecessor, to increase the number of those departments. He strongly urges the establishment, under the patronage of the state, of a journal to be exclusively devoted to the promotion of education; the attainment, if practicable, through the organization of some general society, of an uniformity of text books for the use of schools; some adequate provision for the vaccination of children attending the common schools; the introduction of vocal music as a branch of elementary instruction; the extension of the official term of service of the trustees of the several districts, and of commissioners of common schools, and the election of one only annually; the voluntary organization of county boards of education, and of town, county and state associations for the improvement of common school education; the establishment in cities and populous places of schools of different grades under the charge of a local superintendent; and the denial of costs to plaintiffs in suits commenced against school officers in cases where the court shall certify that the act complained of was performed in good faith, and in the discharge of official duty.

On the subject of the proper preparation of teachers for the common schools, the Superintendent holds the following language:

"The common school system of this State is comparatively of recent origin. The first law authorizing the establishment of common schools was passed about twenty-six years ago. In the management of the economical and pecuniary affairs of the districts, there is nothing to be desired. Greater regularity in the administration of this part of the system cannot well be fancied. But its defects become apparent the moment we enter the schools. All these defects centre in a common deficiency—the deficiency under which the Prussian schools languished so long—the want of efficient and well qualified teachers. One of the principal improvements which have occupied the attention of the legislature and the friends of education during the last six years, has been to supply this defect; but in the pursuit of this common object some diversity of opinion has prevailed with regard to the measures best calculated to accomplish it. Some distinguished advocates of the cause of popular education (and among them are found several of the chief magistrates of

the state) have recommended the establishment of teachers' seminaries on the Prussian plan. The prevailing opinion, however, has been in favor of departments for the education of teachers, engrafted upon the incorporated academies of the state, with such endowments as to render them adequate to the object in view."

"Although the proper objects of popular instruction are better understood than they have been at any previous time, the importance of the reform now in progress is not, perhaps, so generally appreciated as it deserves to be. It is but a few years since common school instruction was ordinarily limited to a knowledge of reading, writing and arithmetic. The acquisitions which are now regarded as the means of education, were then sought as its objects and end. No plan of education can now be considered complete, which does not embrace a full development of the intellectual faculties, a systematic and careful discipline of the moral feelings, and a preparation of the pupil for the social and political relations which he is destined to sustain in manhood. It must be conceded that the standard of common school education in this state falls far short of the attainment of these objects. But the aim of its friends is to introduce into the established system such improvements as shall ultimately secure their accomplishment. Is this a visionary hope? Those who are most familiar with the practical workings of the system, believe that it is not. The whole reform will be accomplished by furnishing each school district with a competent teacher. The application of the remedy is certainly surrounded with difficulties. It must be accomplished by the gradual progress and influence of opinion. The Prussian system not only prepares the teachers, but compels the school districts to employ them. Our whole system proceeds upon the principle of accomplishing by persuasion what the Prussian effects by force."

"There is reason to hope and believe that opinion will gradually accomplish what it seems difficult, if not impossible, to secure by compulsory measures. No people are more quick sighted as to their true interests than the inhabitants of this state. They cannot fail to see that the education of their children will be best secured by employing competent teachers, and that the avenues to wealth and distinction, though open to all, are beset with difficulties for those who enter them without the mental preparation which is necessary to enable them to contend successfully against more favored competitors. These convictions may, and doubtless will be, the fruit of time; for they are to take the place of long established opinions, which are not often hastily eradicated. The reform of the Prussian system, as has already been observed, was gradual. The teachers' seminaries were, for many years, few in number, and were altogether



inadequate to supply the schools. Our departments for the education of teachers have been in operation but little more than three years; and there is certainly much ground for encouragement in the fact that the demands of the school districts upon these departments, for teachers, have been greater than they have been able to supply."

In reference to the plan of county supervision through the medium of local superintendents, he observes: "A regular supervision is indispensable to the success of every public or private undertaking. There is not a department of the government which is not subject to some direct and immediate control, and no individual appoints an agent for the management of any business without reserving and exercising a superintendence over him. Conscious of the absolute necessity of such a provision in the common school system, the framers of the law endeavored to secure it by the election of town inspectors. But the object has not been obtained. The official reports show to what extent even the duty of simple visitation has been neglected. And when the nature of these visitations is considered, it will be obvious that if they were as frequent as might be desired, they could not accomplish the great purpose in view. To be of any avail, the inspection of schools must be conducted by those who are competent to judge of the qualifications of the teacher, and of the progress of the pupils, by examinations in the different studies pursued, and to suggest such improvements and modifications as will enable the student to derive the greatest amount of benefit from the schools. And time must be devoted not only to the schools and their masters, but to the trustees and inhabitants." "All writers on public education concur in the unanimous and decided opinion, that effectual inspection and supervision are more essential to the proper management of schools, and more indispensable to their improvement than any other agency or all other agencies combined; and the Superintendent does not hesitate to express his conviction that until they are provided, all efforts to improve the condition of the schools, to extend the range and elevate the character of the instruction in them, will be utterly hopeless. M. Cousin, the celebrated author on popular education, attributes the success of the schools in Holland almost entirely to the constant and unremitting inspection to which they are continually subjected, and demonstrates that wherever schools have failed, in other countries, to meet the public expectation in the degree and amount of instruction, it has been owing to the want of such supervision."

On the 15th of April, JOHN A. KING, Esq., from the committee on colleges, academies and common schools, of the assembly, submitted an elaborate report, accompanied by a bill embracing substantially the improvements and modifications of

the system recommended by the Superintendent. This bill passed the assembly on the 12th of May subsequently, by a vote of fifty-eight to forty-seven; but no definitive action was had upon it in the senate, for want of time.

The following are extracts from the message of Gov. Seward, at the opening of the session of 1841:

“The number of children attending the common schools is about 570,000; and the whole number of children between five and sixteen years of age, as nearly as can be ascertained, is about 600,000. There are about eleven thousand common school districts in the state, in all of which schools are maintained during an average period of eight months in the year. Of these school districts there are very few which have not complied with the act providing for the establishment of school district libraries. \* \* \* Although an injudicious choice of books is sometimes made, these libraries generally include history and biography, voyages and travels, works on natural history and the physical sciences, treatises upon agriculture, commerce, manufactures and the arts, and judicious selections from modern literature. Henceforth no citizen, who shall have improved the advantages offered by our common schools and the district libraries, will be without some scientific knowledge of the earth, its physical condition and its phenomena, the animals that inhabit it, the vegetables that clothe it with verdure, and the minerals under its surface; the physiology and the intellectual powers of man; the laws of mechanics and their practical uses; those of chemistry and their application to the arts, the principles of moral and political economy; the history of nations, and especially that of our own country; the progress and triumph of the democratic principle in the governments on this continent, and the prospects of its ascendancy throughout the world; the trials and faith, valor and constancy of our ancestors; with all the inspiring examples of benevolence, virtue and patriotism, exhibited in the lives of the benefactors of mankind. The fruits of this enlightened and beneficent enterprise are chiefly to be gathered by our successors. But the present generation will not be altogether unrewarded. Although many of our citizens may pass the district library, heedless of the treasures it contains, the unpretending volumes will find their way to the fireside, diffusing knowledge, increasing domestic happiness, and promoting public virtue.”

“When the census of 1850 shall be taken, I trust it will show, that within the borders of the state of New-York, there is no child of sufficient years who is unable to read and write. I am sure it will then be acknowledged, that when ten years before, there were thirty thousand children growing up in ignorance and vice, a suggestion to seek them, wherever found, and win them to the ways of knowledge, and virtue by persuasion, sym

pathy and kindness, was prompted by a sincere desire for the common good. I have no pride of opinion concerning the manner in which the education of those whom I have brought to your notice shall be secured; although I might derive satisfaction from the reflection, that amid abundant misrepresentations of the method suggested, no one has contended that it would be ineffectual, nor has any other plan been proposed. I observe, on the contrary, with deep regret, that the evil remains as before; and the question recurs not merely how, or by whom shall instruction be given, but whether it shall be given at all, or be altogether withheld. Others may be content with a system that erects free schools, and offers gratuitous instruction; but I trust I shall be allowed to entertain the opinion, that no system is perfect that does not accomplish what it proposes; that our system is therefore deficient in comprehensiveness, in the exact proportion of the children that it leaves uneducated; that knowledge, however acquired, is better than ignorance; and that neither error, accident, nor prejudice, ought to be permitted to deprive the state of the education of her citizens. Cherishing such opinions, I could not enjoy the consciousness of having discharged my duty, if any effort had been omitted which was calculated to bring within the schools all who are destined to exercise the rights of citizenship; nor shall I feel that the system is perfect, or liberty safe, until that object be accomplished. Not personally concerned about such misapprehensions as have arisen, but desirous to remove every obstacle to the accomplishment of so important an object, I very freely declare, that I seek the education of those whom I have brought before you, not to perpetuate any prejudices or distinctions which deprive them of instruction, but in disregard of all such distinctions and prejudices. I solicit their education less from sympathy than because the welfare of the state demands it, and cannot dispense with it. As native citizens they are born to the right of suffrage. I ask that they may at least be taught to read and write; and in asking this, I require no more for them than I have diligently endeavored to secure to the inmates of our penitentiaries, who have forfeited that inestimable franchise by crime; and also to an unfortunate race, which having been plunged by us into degradation and ignorance, has been excluded from the franchise by an arbitrary property qualification incongruous with all our institutions. I have not recommended, nor do I seek, the education of any class in foreign languages, or in particular creeds or faiths; but fully believing, with the author of the Declaration of Independence, that even error may be safely tolerated where reason is left free to combat it, and therefore indulging no apprehensions from the influence of any language or creed among an enlightened people, I desire the education of the entire rising generation in

all the elements of knowledge we possess, and in that tongue which is the universal language of our countrymen. To me, the most interesting of all our republican institutions is the common school. I seek not to disturb, in any manner, its peaceful and assiduous exercises, and least of all with contentions about faith or forms. I desire the education of all the children in the commonwealth in morality and virtue, leaving matters of conscience where, according to the principles of civil and religious liberty established by our constitution and laws, they rightfully belong."

In his annual report for the present year, the Superintendent strongly urges the continuance of the departments for the instruction of teachers connected with the academies, and the increase of the number of the institutions required to maintain such departments. "Normal schools," he observes, "which are so strongly urged by some, must, after all, be essentially like these departments and the academies in which they are established. There must be a board of managers or trustees, teachers, a building, books and apparatus. These are already furnished by the existing academies; and there can be no intrinsic defect in them which should prevent their being made as useful as any normal schools. The change of name will not change the real nature of the institution. The sum of money which would be requisite to purchase ground, erect buildings for one normal school, and fit them for the purpose, would enable at least ten academies to maintain similar schools in buildings already prepared, and under managers already organized. The Superintendent does not mean to underrate those schools, nor to depreciate the benevolent motives of those who recommend them. He acknowledges, and indeed earnestly urges, the inestimable value and absolute necessity of institutions in which our youth may be prepared for the business of teaching. But he would use the means we already have at hand for the purpose, without incurring what seems to him the needless expense of providing others of a similar character. He would respectfully recommend the extension of the public patronage to all the academies in the state, to enable them to establish teachers' departments, and in those counties where there are no academies, the establishment of normal schools. For the latter purpose there might be a provision authorizing the boards of supervisors in such counties to raise the necessary sums to procure suitable grounds and erect proper buildings; and upon their being completed, appropriating from the funds of the state a sufficient sum to employ competent teachers." He, however, remarks in conclusion, "One model school, or more, might be advantageously established in some central part of the state, to which teachers, and those intending to become such, might repair to acquire the best methods of conducting our common schools."

Professor POTTER, of Union College, who, at the request of the department, had visited and personally inspected during the year 1840, several of the teachers' departments connected with the academies, submitted a very able report of the result of his examination, closing with the following suggestion: "I would suggest whether some means might not be adopted for training a class of teachers with more especial reference to country common schools, and to primary schools in villages and cities—teachers whose attainments should not extend much beyond the common English branches, but whose minds should be awakened by proper influences—who should be made familiar by practice with the best modes of teaching, and who should come under strong obligations to teach for at least two or three years. In Prussia and France normal schools are supported at the public expense; most of the pupils receive both board and tuition gratuitously; but at the close of the course they give bonds to refund the whole amount received, unless they teach, under the direction of the government, for a certain number of years. That such schools, devoted exclusively to the preparation of teachers, have some advantages over any other method, is sufficiently apparent from the experience of other nations; and it has occurred to me that as *supplementary* to our present system, the establishment of one in this state might be eminently useful. If placed under proper auspices, and located near the capital, where it could enjoy the supervision of the Superintendent of Common Schools, and be visited by the members of the legislature, it might contribute in many ways to raise the tone of instruction throughout the state."

The Superintendent renewed his recommendation of such a modification of the common school system, as was suggested in his report of the preceding year. He contrasts the present situation of the schools with their condition in 1815, the number of organized and reporting districts having increased from 2,631 to 10,397; the number of children instructed from 140,706 to 572,995; and the amount paid from the treasury towards defraying the compensation of teachers from \$45,398 to \$220,000; and after referring to the fact that \$275,000 were annually contributed in taxes and nearly \$500,000 on rate-bills, for the support of the schools, observes, "A people who have thus freely expended their money and appropriated their private means for the education of their children, to an amount nearly double the expense of administering the government, cannot with any truth or justice, be said to be indifferent to the subject. And when we find thirty thousand trustees of school districts gratuitously rendering their services, and making their returns with order, regularity and promptitude, we ought not to deny their appreciation of the value of the labor in which they engage, nor their merit in performing it. It is no slight proof

of the value of a system which is thus administered without compulsion. Its fruits are seen in the education of one-fourth of an entire population, and of nearly every child of a proper age for the primary schools; in the advance of the wages paid to teachers, a clear indication that a higher degree of talent is employed and appreciated; and in the interest almost universally excited among our fellow-citizens of every class, in the success of the effort. Still, like every other human institution, it is susceptible of constant improvement. This is not to be accomplished by sudden changes which derange the machinery, and which, when effected, will probably be found to require alteration; and least of all by those schemes which are so comprehensive as to be incapable of practical execution. Amendments, when experience has indicated their necessity, may be gradually incorporated in the system, without obstructing it. And the introduction of new elements to aid, invigorate and sustain what we have, and in keeping with it, will be more likely to accomplish their purpose than if they were antagonistic to what is already established."

On the 26th of May, 1841, the legislature, by a nearly unanimous vote, passed the act drawn up by Mr. Spencer, and reported by the literature committees of the two houses, providing for the appointment by the board of supervisors of each county, biennially, of a County Superintendent of common schools, charged with the general supervision of the interests of the several schools under his jurisdiction. The various powers, functions and duties of this officer, will hereafter be more particularly adverted to. The number of town inspectors of schools was reduced to two; the qualifications of voters at school district meetings, specifically defined; provision made for the establishment of schools for the instruction of colored children; a subscription for so many copies of a monthly periodical exclusively devoted to the cause of education, as should supply each school district in the state, authorized; and various minor amendments in the details of the system, made.

Under this act, County Superintendents were appointed in the various counties of the state; and under full and ample instructions from the Superintendent, entered in the succeeding winter upon the discharge of their official duties.

By an ordinance of the Regents of the University, of the 4th of May, 1841, the sum of \$300 was directed to be annually apportioned to two academies in each of the Senate districts, for the maintenance of departments for the education of teachers of common schools; in addition to which seven other academies were provided with similar departments, under the act of 1838, requiring their establishment in every institution receiving a share of the literature fund equal to \$700 per annum. In October of this year, Mr. SPENCER was transferred to a

seat in the Cabinet, as Secretary of War; and by a provision in the act of 1841, above referred to, the duties of Superintendent of Common Schools devolved upon his general deputy, until the vacancy was filled by the legislature in the month of February ensuing.

Of the energy, ability and transcendent success with which the brief administration of Mr. SPENCER was conducted, it would be superfluous here to speak. The value and importance of the reform effected under his auspices, and chiefly through his indefatigable exertions, in the system of common schools, by the adoption of the plan of local supervision through the agency of County Superintendents, will be best appreciated by the fact that every successive legislature since convened, through every mutation of party, has, with unexampled unanimity, sanctioned and sustained the system so devised and matured: that the practical operation of that system has immeasurably elevated the condition of the common schools throughout the state, advanced the standard of popular education, enlisted the efficient co-operation of an enlightened public sentiment, and laid the foundations for that universal diffusion of knowledge, which under the guidance of sound moral and religious principles, is destined to sustain, and we would fain hope to perpetuate, the fabric of our free institutions.

On the 5th of January, 1842, the acting Superintendent, (S. S. RANDALL) transmitted to the legislature the annual report required from the department, from which it appeared that the whole number of school districts in the state was 10,886; the number of children between the ages of 5 and 16, residing in the several districts from which reports had been received (exclusive of the city of New-York,) 583,347, and the number of children under instruction 603,583, being an increase of 20,583 over that of the preceding year.

On the 7th of February succeeding, the Hon. SAMUEL YOUNG of Saratoga, was appointed Secretary of State and Superintendent of Common Schools; and in May following he met the several county superintendents in convention at Utica, and possessed himself of a thorough acquaintance with the details and practical operations of the system which he had been called upon to supervise. In his first annual report, (Jan. 12, 1843) he recommended the reduction of the academical departments for the education of teachers of common schools to four, and the appropriation of a sufficient annual sum to establish and maintain a normal school at the seat of government, where it might be subjected to the immediate supervision as well of the department as of the representatives of the people during the sessions of the legislature; the abolition of the offices of commissioner and inspector of common schools, and

the substitution of a town superintendent; the extension of the official term of trustees of school districts to three years, one to be elected annually; the vesting of appellate powers in the first instance in the several county superintendents; the perpetuation of the district library system, with suitable modifications and restrictions, and various other incidental and minor reforms of the system: most of which, in pursuance of his suggestions, and on an able and argumentative report from Mr. HULBURD of St. Lawrence, chairman of the committee on colleges, academies and common schools, of the assembly, were incorporated by the legislature in the act of April 16, 1843. At this period the number of school districts had attained its maximum, 10,893; the number of children between 5 and 16, residing in the several reporting districts, was 601,765, and the whole number under instruction 598,749. The Superintendent acknowledges a "decided predisposition" on his accession to office, "to exercise whatever influence he might possess" for the abolition of the system of county supervision. But after attending the convention of county superintendents, and possessing himself of a thorough acquaintance with the previous defects and present advantages of that system he thus sums up the conclusions to which he had arrived:

"Deputy Superintendents properly qualified for the discharge of their functions, possessing a competent knowledge of the moral, intellectual, and physical sciences, familiar with all the modern improvements in elementary instruction, and earnestly intent on elevating the condition of our common schools, can do much more to accomplish this desirable result, than all the other officers connected with the system. Acting on a broader theatre, they can perform more efficiently all that supervision which has heretofore been so deplorably neglected, or badly executed. The system of deputy superintendents is capable of securing, and can be made to secure, the following objects:

"It can produce a complete and efficient supervision of all the schools of the state, in reference as well to their internal management, as to their external details:

"It can be made to unite all the schools of the state into one great system; making the advancement of each the ambition of all; furnishing each with the means of attaining the highest standard of practical excellence, by communicating to it every improvement discovered or suggested in every or any of the others:

"It can do much towards dissipating the stolid indifference which paralyses many portions of the community, and towards arousing, enlightening and enlisting public sentiment, in the great work of elementary instruction, by systematic and periodical appeals to the inhabitants of each school district, in the form of lectures, addresses, &c.



"It can be made to dismiss from our schools all immoral and incompetent teachers, and to secure the services of such only as are qualified and efficient, thereby elevating the grade of the school master, and infusing new vitality into the school.

"An attentive examination of the interesting reports of the deputy superintendents will clearly show that the accomplishment of several of the most important of these objects is already in a state of encouraging progression.

"In these times of commercial paralysis, monetary pressure and impending taxation, superinduced by causes which were clearly foreseen, and might easily have been obviated, it is very far from the intention of the Superintendent to advocate any system which shall add weight to the existing burdens of the community. Instead of this, it will be manifest that the system of deputy superintendents can be made to supersede official duty heretofore badly performed, and taxation heretofore imposed with little resulting utility, to an amount greatly exceeding the expenses of this system."

There were in the state, as appears by the last annual report of the Superintendent, (Jan. 13, 1844) 10,875 organized school districts, 670,995 children between the ages of five and sixteen, exclusive of those residing in the city of New York; and 657,782 children taught during the year. "We may reasonably," observes the Superintendent, "congratulate ourselves upon the accession of a new order of things, in relation to the practical workings of our system. Through the medium of an efficient county and town supervision, we have succeeded not only in preparing the way for a corps of teachers thoroughly competent to communicate physical, intellectual and moral instruction—themselves enlightened and capable of enlightening their pupils—but also in demolishing the numerous barriers which have hitherto prevented all intercommunication between the several districts. An extended feeling of interest in the condition and progress of the school has been awakened; and in addition to the periodical inspection of the county and town superintendents, the trustees and inhabitants are now, in many portions of the state, beginning to visit the schools of their districts: striving to ascertain their advancement; to encourage the exertions of teachers and pupils, and to remove every obstacle resulting from their previous indifference. Incompetent teachers are beginning to find the avenues to the common school closed against them; and the demand on the part of the districts for a higher grade of instructors, is creating a supply of enlightened educators, adequate to the task of advancing the youthful mind in its incipient efforts to acquire knowledge. The impetus thus communicated to the schools of one town and county, is speedily diffused to those of others. Through frequent and periodical meetings of town and county associations

of teachers and friends of education, the improvements adopted in any one district are made known to all; and the experience, observations and suggestions of each county Superintendent, annually communicated through their reports, to all. By these means the stream of popular education, purified at its source and relieved from many of its former obstructions, is dispensing its invigorating waters over a very considerable portion of the state.

"The reports of the several county Superintendents exhibit unequivocal evidence of efficient exertions on their part, in the performance of the responsible duties assigned them, by law and by the instructions of this department. To their efforts is to be attributed, to a very great extent, the revolution in public sentiment, by which the district school from being the object of general aversion and reproach, begins to attract the attention and regard of all. To their enlightened labors for the elevation and advancement of these elementary institutions, we owe it in a great measure, that new and improved modes of teaching, of government and of discipline have succeeded in a very large proportion of the districts, to those which have hitherto prevailed; that a higher grade of qualifications for teachers has been almost universally required; that parents have been induced to visit and take an interest in the schools; that private and select schools have been to a considerable extent discountenanced, and the entire energies of the inhabitants of districts concentrated on the district school; and that the importance, the capabilities and extended means of usefulness of these nurseries of knowledge and virtue, are beginning to be adequately appreciated in nearly every section of the state. Collectively considered, these officers have well vindicated the confidence reposed in them by the legislature and the people, and justified the anticipations of the friends of education."

Having brought these sketches to a close a general summary of the leading features of the system, as at present organized, may not prove an inappropriate introduction to a more precise and specific delineation of each separate branch:

The affairs of each district are managed under the general direction of the inhabitants entitled to vote therein, by three trustees, one of whom is annually elected, who hold their offices for three years, a district clerk, collector, and librarian. These trustees are required annually, between the 1st and 15th of January, to report to the Town Superintendent, the length of time a school has been taught in their district during the preceding year, by qualified teachers, the amount of public money received and expended, the number of children taught, the number between 5 and 16, residing in the district, together with such other information as may from time to time be required of them by the Superintendent of Common Schools; they have

power also and are required to call annual and special meetings of the inhabitants, to make out tax lists of all taxes voted for district purposes, and annex their warrant for the collection of the same; to purchase or lease sites for the school house, when designated by the inhabitants, and to build, hire or purchase, keep in repair and furnish such school house with necessary fuel and appendages, out of the funds collected and paid to them for that purpose; they have the custody and safe keeping of the district school house; contract with and employ teachers, and make out the necessary rate bill for so much of their wages as is not paid from the public funds applicable to that purpose; exempting indigent persons either wholly or in part, and levying such exemption upon the taxable property of the district. The Town Superintendent is annually elected by the people at town meetings, and has the general supervision of the interests of common schools in his town; visits and inspects each school within his jurisdiction as often at least as once in each quarter; advises and directs as to the government, discipline, and course of instruction therein; examines and licenses teachers annually; receives and apportions the school money belonging to his town, among the several districts, according to the number of children between the ages of 5 and 16 residing in each, at the date of its annual report; forms, regulates and alters school districts, in conjunction (when required by the trustees of any district interested) with the supervisor and town clerk; prosecutes for and collects all fines and penalties imposed by the school act upon the officers of districts; and annually reports to the County Superintendent the number of districts in his town, the amount of public money received and expended, from what sources received and how expended, together with a condensed abstract of all the reports of the trustees of districts made to him, and a variety of other information relative to the condition of the several schools under his charge. The County Superintendent is appointed once in two years by the board of supervisors, and is removable by them, and by the State Superintendent, for neglect of duty or mal-conduct. He is charged with the general supervision of the schools of the county; hears and determines all appeals arising within his jurisdiction, subject to the review of the state Superintendent; examines and grants permanent certificates of qualification to teachers, which are available throughout the county; may, with the concurrence of any town superintendent, annul any certificate granted by the latter; annually visits and inspects the several schools of the county as often as practicable; inquires into all matters relating to their government, course of instruction, the condition of the school houses and of the districts generally; advises and counsels with the trustees and other officers in relation to their duties, and with the several teachers in relation to their modes

of teaching, government and discipline, course of studies, text books, &c. and generally, subject to such rules and regulations as the state Superintendent may from time to time prescribe, is directed "by all the means in his power to promote sound education, elevate the character and qualifications of teachers, improve the means of instruction, and advance the interest of the schools committed to his charge." He is required annually to report to the State Superintendent, the result of his examinations and inspections, together with a great variety of useful statistical information relating to the condition of the several schools under his charge; an abstract of all the reports of the Town Superintendents; and such other suggestions for the advancement and improvement of the interests of education generally, as he may deem advisable. These officers call periodical meetings of the Town Superintendents, teachers of common schools, officers and inhabitants of districts for the purpose of mutual consultation and advancement; organize teachers' institutes preparatory to the summer and winter terms with the view of instructing the several teachers and preparing them for the efficient discharge of the duties devolving upon them; and deliver familiar lectures in each district, at each visitation. The ability, fidelity and success with which their duties have thus far been discharged, have exerted a highly beneficial influence on the interests of education.

At the head of the whole system—controlling, regulating, and giving life and efficiency to all its parts, is the State Superintendent. He apportions the public money among the several counties and towns; distributes the laws, instructions, decisions, forms, &c., through the agency of the County and Town Superintendents, to the several districts—is the ultimate tribunal for the decision of all controversies arising under any of the laws relating to common schools—keeps up a constant correspondence with the several officers connected with the administration of the system in all its parts, as well as with the inhabitants of the several districts; exercises a liberal discretionary power, on equitable principles, in all cases of inadvertent, unintentional or accidental omissions to comply with the strict requisitions of the law; reports annually to the legislature the condition, prospects, resources and capabilities of the common schools, the management of the school fund, and such suggestions for the improvement of the system as may occur to him: and vigilantly watches over, encourages, sustains and expands to its utmost practicable limit the vast system of common school education throughout the state.

The sum of \$275,000 is annually apportioned by the state, from the school fund, and paid over to the several counties in proportion to the population of each: an equal amount is required by law to be raised on the taxable property of the several

counties and towns: one-fifth of the aggregate is required to be expended either in the purchase of suitable books for a district library, or for maps, globes and other school apparatus; and the residue, augmented by local funds and by an amount equal to that received from the state, to be raised by vote of the town, at the discretion of the inhabitants, in paying the wages of duly qualified teachers.

During the year embraced in the last annual report of the Superintendent of common schools, the aggregate amount of public money received and expended in the several districts from which reports have been received, was \$660,727.41; of which \$565,793.76 were applied to the payment of teachers' wages, and \$94,933.65 to the purchase of suitable books for the district libraries. The number of volumes in the latter amounted in the aggregate to 875,000. The amount paid by the inhabitants of the several districts on rate bills for teachers' wages, over and above the public money applied to that purpose, was \$509,376.97: making an aggregate amount of upwards of \$1,000,000 applied during the year to the payment of the wages of teachers alone.

Such is a condensed view of our present system of COMMON SCHOOL EDUCATION;—a system elaborated and matured to its present state by the exertions of the highest minds among us, during a period of nearly forty years; a system comprehending the best and dearest interests, present and prospective, of an enlightened and free people, full of promise for the future, and containing within itself the germs of the most extended, individual, social and national prosperity; a system identified with the highest hopes and interests of all classes of the community, and from which are destined to flow those streams of intelligence, and public and private virtue, which alone can enable us worthily to fulfil the noble destinies involved in our free institutions. ESTO PERPETUA!

The table upon the following page presents a connected view of the progress of the system from the period of the first statistical report, in 1815.

## COMPARATIVE STATEMENT

*Of the condition of the Common Schools, from 1815, the period of the first statistical report, to 1843.*

Date of report of trustees.	Whole No. of districts in the towns from which reports were made.	No. of districts from which returns were received.	No. of children taught in said districts.	No. of children between the ages of 5 & 16 years residing in said districts.	Sum annually paid from state treasury.	Amount of money rec'd by the districts.	Amount paid by individuals on rate bills.
May 1, 1815	2,755	2,631	140,106	176,449	\$48,376	\$85,720 98	
" 1816	3,713	2,873	170,355	198,440	46,395	64,834 88	
" 1817	3,264	3,225	153,233	218,969	54,799	73,235 42	
" 1818	4,614	3,844	210,316	235,871	59,933	92,010 54	
" 1819	5,763	5,118	271,877	302,703	69,968	117,151 07	
Jan. 1, 1820	6,332	5,489	304,659	317,633	69,930	146,418 08	
" 1821	6,659	5,882	332,979	339,268	79,967	167,195 04	
" 1822	7,051	6,255	351,173	357,029	80,104	173,420 60	
" 1823	7,382	6,708	377,034	373,208	80,000	182,820 25	
" 1824	7,642	6,876	409,940	383,500	80,000	182,741 61	
" 1825	7,773	7,117	425,886	395,898	80,000	182,790 09	
" 1826	8,114	7,550	431,601	411,256	80,000	185,720 46	
" 1827	8,298	7,806	441,856	419,216	80,000	222,995 77	
" 1828	8,609	8,164	468,205	449,113	100,000	232,343 21	
" 1829	8,879	8,292	480,041	468,257	100,000	214,840 14	\$297,048 44
" 1830	9,063	8,631	499,434	497,503	100,000	238,641 36	346,807 20
" 1831	9,339	8,841	507,106	509,967	100,000	244,998 85	374,001 54
" 1832	9,600	8,941	494,695	508,878	100,000	305,582 78	358,320 17
" 1833	9,690	9,107	512,476	522,618	100,080	307,733 08	369,696 36
" 1834	9,865	9,392	531,240	534,002	100,080	316,153 93	399,137 04
" 1835	10,132	9,676	541,401	540,285	100,080	312,181 20	419,578 69
" 1836	10,207	9,696	532,167	538,398	100,000	313,376 91	425,560 86
" 1837	10,346	9,718	524,188	536,682	100,000	335,895 10	436,346 46
" 1838	10,583	9,830	528,913	539,747	110,000	335,882 92	477,548 27
" 1839	10,706	10,127	557,229	564,790	113,793	374,411 61	521,477 49
" 1840	10,769	10,397	572,995	592,564	*275,000	623,685 94	476,443 27
" 1841	10,886	10,698	603,633	583,347	*275,000	668,964 70	488,479 54
" 1842	10,893	10,645	608,749	601,765	*285,000	676,066 07	468,688 22
" 1843	10,875	10,656	687,782	677,995	*275,000	660,727 41	509,376 97

\* Including revenue from United States Deposit Fund.

THE HISTORY OF THE CITY OF BOSTON

FROM THE FIRST SETTLEMENT TO THE PRESENT TIME

Year	Event
1630	First settlement of Boston
1634	First church organized
1638	First school established
1644	First fire in the city
1656	First public library
1676	First public hospital
1688	First public school
1693	First public library
1703	First public school
1713	First public library
1723	First public school
1733	First public library
1743	First public school
1753	First public library
1763	First public school
1773	First public library
1783	First public school
1793	First public library
1803	First public school
1813	First public library
1823	First public school
1833	First public library
1843	First public school
1853	First public library
1863	First public school
1873	First public library
1883	First public school
1893	First public library
1903	First public school
1913	First public library
1923	First public school
1933	First public library
1943	First public school
1953	First public library
1963	First public school
1973	First public library
1983	First public school
1993	First public library
2003	First public school
2013	First public library
2023	First public school

## CHAPTER I.

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### OF THE SCHOOL FUND AND ITS APPORTIONMENT.

IN every year immediately following a year in which a national or state census is taken, the Superintendent of Common Schools is required by law to "apportion the school moneys to be annually distributed amongst the several counties of the state, and the share of each county amongst its respective towns and cities," according to the rates of their population respectively. If an increase of the fund to be distributed occurs during the period intervening between the respective enumerations, under the authority of the general and state governments, the Superintendent is to apportion such increase according to the last preceding census. When the census, or returns, upon which an apportionment is to be made, shall be so far defective, in respect to any county, city, or town, as to render it impracticable for the Superintendent to ascertain the share of school moneys, which ought then to be apportioned to such county, city, or town, he is required to ascertain, by the best evidence in his power, the facts upon which the ratio of such apportionment shall depend, and to make the apportionment accordingly: and whenever, in consequence of the division of a town, or the erection of a new town, in any county, the apportionment then in force shall become unjust, as between two or more of the towns of such county, he is required to make a new apportionment of the school moneys next to be distributed amongst such towns, ascertaining by the best evidence in his power, the facts upon which the ratio of apportionment as to such towns, shall depend. He is also to certify each apportionment made by him, to the comptroller, and give immediate notice thereof, to the clerk of each county interested therein, and to the clerk of the



city and county of New-York; stating the amount of moneys apportioned to his county, and to each town and city therein, and the time when the same will be payable to the treasurer of such county, or to the chamberlain of the city of New-York.—*Laws relating to Common Schools*, § 2-8.

The proceeds of the sales of all lands belonging to the state are, by the constitution, appropriated exclusively to the Common School Fund. The lands remaining unsold consist of 357,824 acres, principally situated in the fourth senate district, in the northern part of the state, and are valued by the surveyor-general at \$178,412, constituting what is termed the *unproductive* capital of the fund.

The *productive* capital of the fund amounted on the 30th of September last to \$1,975,093.15, and consists of bonds for lands sold and for loans, bank stock, state stock, balance due on the loans of 1792 and 1808, and money in the treasury belonging to the fund; yielding an annual revenue of \$110,000, for distribution among the several school districts. An equal amount was appropriated by chap. 237 of the Laws of 1838, from the annual revenue of the United States deposit fund, together with an additional amount of \$55,000 for the purchase of district libraries, so that the aggregate sum to be apportioned annually among the several school districts from the state treasury, is \$275,000.00.

This sum is required to be paid on the first day of February in every year, on the warrant of the comptroller, to the treasurers of the several counties and the chamberlain of the city of New York, according to the last preceding apportionment of the Superintendent of Common Schools. On the receipt of the share so apportioned to each county by the treasurer, he is required to give notice in writing to the Town Superintendent of each town, and to some one or more of the Commissioners of common schools of each city in his county, of the amount apportioned to such town or city, and to hold the same subject to their order. In case they, or any of them, do not apply for their share of such moneys, or of a vacancy in their office, the treasurer is to retain the same and add it to the amount next to be received by him for distribution. It is made the *special duty* of the county treasurer "to apply for and receive

the school moneys apportioned to their respective counties, as soon as the same become payable.—§ 12-14.

Treasurers of counties have no right to deduct from the amount of the school moneys apportioned to each town a commission of one per cent. They are unquestionably *entitled* to such a commission under § 26, 1 R. S. 370, on the moneys received and paid by them for the use of the common schools; but they have no right to diminish the amount of the moneys placed in their hands for distribution, under an apportionment by the Superintendent. Their commission is a charge upon the county, and not upon the Common School Fund.—*Com. School Dec. 279.*

Whenever the clerk of any county receives from the Superintendent of common schools notice of the apportionment of moneys to be distributed in the county, he is required to file the same in his office, and transmit a certified copy to the county treasurer, and to the clerk of the board of supervisors of the county; and the clerk of the board of supervisors is to lay such copy before the supervisors at their next meeting.

By § 17 of the school act (No. 19,) it is made "the duty of the supervisors, at such meeting, and at every annual meeting thereafter, to add to the sums of money to be raised on each of the towns of the county, for defraying the necessary expenses thereof, a sum equal to the school moneys which shall have been apportioned to such town; which moneys, so added, together with the fees of the collector, shall be levied and collected in the same manner as other moneys directed to be raised in the town;" and by § 18, the supervisors "shall cause and require the collector of each town, by their warrant to him, to pay the moneys so added, when collected, retaining his fees for collection, to the Town Superintendent of common schools in such town, for the use of common schools therein; whose receipt therefor shall be sufficient evidence of such payment."

If there shall not be any Town Superintendent of common schools in such town when the moneys are collected, the collector is to pay the same, retaining his fees for collection, to the county treasurer, to be by him apportioned as above required.

By the 2d section of chap. 330, Laws of 1841, (Laws relating to Common Schools, No. 22) it is made the duty of the respective boards of supervisors of the several counties in the state, whenever they shall have omitted at their annual meeting, to add to the sums of money to be raised on the towns of their county, an equal sum to that apportioned to such towns by the Superintendent of Common Schools in any year, to "hold a special meeting for the purpose of adding the sum that may be deficient, whenever it can be done in time to allow such deficient sum to be collected ~~with~~ the other taxes of the county; and such special meeting shall be notified by the clerk of the board of supervisors on receiving notice of the deficiency from a majority of the board of supervisors of said county; and in case such deficient sum shall not be directed to be raised at a special meeting, it shall be the duty of the supervisors of such county, at their next annual meeting, to add the amount of such deficiency to the sums to be raised on each of the towns of the county; which, with the fees of collection, shall be levied and collected in the same manner as other moneys directed to be raised in the town, and shall be apportioned among the school districts therein according to law." By § 3 of the same act (No. 23) it is made the duty of the clerk of the board of supervisors in each county in this state, on the last day of December in each year, to transmit to the Superintendent of Common Schools, certified copies of all resolutions and proceedings of the board of supervisors of which he is clerk, passed or had during the preceding year, relating to the raising of any money for school or library purposes, and to report particularly the amount of such money directed to be raised in each town of such county; and in case it shall not appear that the amount required by law to be raised for school and library purposes has been directed to be raised during the year by the board of supervisors of any county, the Superintendent of Common Schools and the comptroller are authorized to direct that the money appropriated by the state and apportioned to such county, be withheld until the amount that may be deficient shall be raised, or that so much only of the money apportioned to such county be paid to the treasurer thereof, as shall be equal to the amount

directed to be raised therein by the supervisors of such county; and in such case the balance so withheld is to be added to the principal of the common school fund.

The electors of each town, at their annual town meeting, are also authorized "to direct such sum to be raised in such town for the support of common schools for the then ensuing year, as they may deem necessary, but not exceeding a sum equal to the amount required by law to be raised therein for that purpose."—1 R. S. 340. A special meeting may be called for this purpose, when twelve persons eligible as supervisors make application in writing therefor to the town clerk.—*Id.* 341, § 7.

In addition to the funds thus provided by the general law, a large proportion of the towns are annually in the receipt of local funds, arising from the proceeds of the sales or leases of gospel and school lots belonging to such towns, reserved under an act passed in 1789, by the surveyor-general in the original allotment of townships; from the appropriation of moneys remaining in the hands of the overseer of the poor of towns in those counties in which the distinction between town and county paupers has been abolished, to the support of the schools, by a vote of the inhabitants at their annual town meeting; and in some instances from testamentary bequests and voluntary donations, for the benefit of common schools. In most of the cities of the state, too, as will be seen hereafter, large sums are directed by special acts to be raised for the support of the public schools.

The aggregate amount of public money, applicable to school and library purposes, annually apportioned from the state treasury, and raised upon the taxable property of the inhabitants of the different towns and counties in pursuance of law, exclusive of the various local funds, the amounts raised under special acts in cities, and the sum voluntarily raised by the inhabitants of towns, by vote at their annual town meeting, is,..... \$550,000

Add to this the aggregate amount of the various local funds, .....	20,000
Sums voluntarily raised by vote of town meeting, .....	20,000
Raised in cities under special laws, .....	75,000

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Amount of public money from all sources,.. \$665,000



## CHAPTER II.

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### TOWN SUPERINTENDENTS OF COMMON SCHOOLS.

By the first section of chap. 133, Laws of 1843, the offices of Commissioners and Inspectors of common schools were abolished; and by the second section it is provided that "there shall hereafter be annually elected in each of the towns of this state, at the same time and in the same manner that other town officers are chosen, an officer to be denominated "Town Superintendent of Common Schools," who in addition to the powers and duties hereinafter conferred and imposed, shall perform all the duties, and be subject to all the restrictions and liabilities now by law imposed upon commissioners and inspectors of common schools, except as otherwise herein provided. It shall be his duty, within ten days after his election, to execute to the supervisor of his town and file with the town clerk, a bond with one or more sufficient sureties, to be approved of by said supervisor by endorsement over his signature on said bond, in the penalty of double the amount of school money which his town received from all sources during the year preceding that for which he shall have been elected, conditioned for the faithful application and legal disbursement of all the school money coming into his hands. In case such bond shall not be executed and filed within the time herein specified, the office of such Town Superintendent shall be deemed vacant, and such or other vacancy shall be filled in the same manner as vacancies in the office of commissioners of common schools are now by law directed to be filled. Such Town Superintendent shall be entitled to a compensation of one dollar and twenty-five cents for every day necessarily spent in the discharge of the duties of his office, to be audited and allowed as other town charges."

By § 16' of chap. 260, laws of 1841 (No. 75) Town Superintendents are declared ineligible to the office of trustee of a school district. The spirit of this provision prohibits the same individual from holding these two offices at the same time, whatever may have been the order in which they were conferred. The same remark is applicable to the offices of town supervisor and Superintendent.

The various powers and duties appertaining to the office of Town Superintendent, may be arranged under the following heads:

- 1st. The formation and alteration of districts.
- 2d. The apportionment and payment of public money.
- 3d. The inspection and licensing of teachers, and the visitation and supervision of schools.
- 4th. The making and transmission of their annual reports.
- 5th. The collection of certain penalties and forfeitures.
- 6th. Miscellaneous duties under various provisions of law.

#### I. OF THE FORMATION AND ALTERATION OF SCHOOL DISTRICTS

By the third section of the act of 1843, above referred to, it is provided that "in the erection or alteration of a school district, the trustees of any district to be affected thereby may apply to the supervisor and town clerk to be associated with the Town Superintendent; and their action shall be final unless duly appealed from. The compensation of the supervisor and town clerk, when thus associated, shall be the same as that of the Town Superintendent." The various remarks under this head will therefore be applicable as well to the action of the town supervisor, superintendent and clerk, when associated together by virtue of this provision, as to that of the Town Superintendent alone; although for the sake of brevity and simplicity the latter only is referred to.

It is proper, however, in this connection to advert to the general duties of the town clerk, in his capacity as clerk to the Town Superintendent, independently of the provision above cited. By the 43d section of the school act (No. 43) he is required "to receive and keep all reports

made to the Town Superintendent from the trustees of school districts, and all the books and papers belonging to the Town Superintendent, and to file them in his office: to attend and prepare, under his direction, all his reports, estimates and apportionments of school money, and to record the same and his other proceedings in a book to be kept for that purpose: to receive all such communications as may be directed to him (the town clerk) by the Superintendent of Common Schools, and to dispose of the same in the manner directed therein; to transmit to the clerk of the county all such reports as may be made for such clerk by the Town Superintendent; to notify the Town Superintendent, upon receiving notice from the county clerk, that he has not made his annual report, for the purpose of preparing such report: and generally, to do and execute all such things as belong to his office, and may be required of him by the Town Superintendent."

By the 31st section of the act of 1841, (No. 53) town clerks are to be allowed in **their** accounts for all postages actually paid by them on communications from commissioners of common schools, or from trustees of school districts; and it is made their duty to transmit to the Superintendent the names of the clerks of the several school districts, to distribute communications from the Superintendent to the clerks of the school districts, and to receive and transmit to the Superintendent such returns and papers as he shall, by regulation, require to be transmitted by them.

It has been decided by the Superintendent of Common Schools, that no legal impediment existed to the election of the town clerk as Town Superintendent: but it is respectfully submitted whether very great practical embarrassment would not be likely to arise from a conjunction of the two offices in one person, particularly in those cases, and they will probably be numerous, where trustees desire to avail themselves of the united action of the supervisor, Town Superintendent and town clerk, in the formation or alteration of school districts, and where it may be desirable that the concurrence of at least a majority of those officers, in the proposed alteration, should be obtained or refused. Although, therefore, no absolute incompatibility exists in the discharge of the duties of



both offices, and although there is no specific provision of law declaring the incumbent of either ineligible to the other, yet it is believed that the public interests would be best promoted by the separation of the two offices.

Under the authority conferred by § 31, above quoted, the Superintendent has, by a general order, required the several town clerks, within ten days after every annual town meeting, to forward to the County Superintendents of their respective counties the names of the persons elected to the office of Town Superintendent of their respective towns: and also to transmit to such *County* Superintendents the names of the clerks of the several school districts in their town from time to time as they shall be received from the districts respectively; instead of forwarding the same to the state Superintendent, as required by the section referred to.

#### CONSENT OF TRUSTEES, AND NOTICE OF ALTERATION.

By the 22d section of the school act (No. 26) it is provided that "no alteration of any school district made without the consent of the trustees thereof, shall take effect until three months after notice in writing shall be given, by the Town Superintendent, to some one or more of such trustees." As the principal portion of the inhabited territory of the state has already been subdivided into school districts, every formation of a new district, will, to a greater or less extent, involve some alteration in districts previously existing. The consent of a majority of the trustees, therefore, of each district affected by such alteration, or a written notice thereof, to some one of such trustees, is in all cases indispensable to the validity of the proceeding. In the absence of such consent the order of the Town Superintendent is, to use a legal phrase, *inchoate*, or *in abeyance*, until the expiration of three months after service of the notice required by law: and the districts to be affected by the proposed alteration, remain for all district purposes, in their original condition, the same as though no action whatever had been had. The law has not prescribed any specific time within which the notice of the alteration must be given, where the consent of trustees has been withheld; but it is obviously

proper that such notice should be given at the time of the alteration, or as soon thereafter as may be practicable. A notice at any subsequent period would undoubtedly however be valid, and would amount to a republication of the order of the Town Superintendent; and at the expiration of three months from the service of such notice, the alteration would take effect. The consent of the trustees, when given, would appear from the record of the alteration; but in the absence of such proof it may be established by other testimony.

Whenever any portion of the inhabitants or territory of one district is annexed to another existing district, the consent of a majority of the trustees of *each* district must be procured, or the notice required by law must be given.

The consent of trustees to a proposed alteration in their district may be given either verbally or in writing; and it has even been held that their *presence* at the time of alteration, with full knowledge of the fact of such alteration, amounts, in the absence of any *objection* on their part, to a consent.—*Com. School, Dec. 59.*

Persons attached to a district without the consent of trustees, may be transferred to another district, at any time prior to the expiration of three months; and such new transfer amounts to a virtual abandonment of the original order.

The consent of trustees to an alteration in their district must in all cases have reference to the specific alteration proposed, and cannot be general and unlimited.—*Com. School, Dec. 30.*

The provision requiring the consent of trustees to detach persons from their district, and holding them three months without such consent, was made for the benefit and protection of the trustees, to whose injury the alteration might operate. For instance, trustees might have made contracts and incurred responsibilities, which would operate oppressively, if some of the most wealthy were detached before they had time to collect the tax. And to carry this intention into effect, the act should be benignly and favorably construed for the protection of the trustees.—*Id. 30.*

## NOTICE FOR THE ORGANIZATION OF A NEW DISTRICT.

Whenever any school district is formed in any town, it is the duty of the Town Superintendent, within twenty days thereafter, to prepare a notice in writing, describing such district, and appointing a time and place for the first district meeting, and to deliver such notice to a taxable inhabitant of the district, who is bound to notify every other inhabitant of the district, qualified to vote at district meetings, by reading the notice in the hearing of each such inhabitant, or in case of his absence from home, by leaving a copy thereof, or of so much thereof as relates to the time and place of such meeting, at the place of his abode, at least six days before the time of the meeting. In case such notice shall not be given, or the inhabitants of a district shall refuse or neglect to assemble, or form a district meeting, when so notified; or in case any such district, having been formed and organized in pursuance of such notice, shall afterwards be dissolved, so that no competent authority shall exist therein, to call a special district meeting in the manner hereinafter provided; such notice must be renewed by the Town Superintendent, and served in the manner above described.—§ 55-57. (Nos. 66-68.)

The notice here required to be served on *each voter* in the district by the inhabitant to whom the Town Superintendent delivers the notice prepared by him, need not contain the *description of the district* referred to in the 55th section. It is sufficient if it specify the time, place, and general object of the meeting. "It is necessary for the person notifying the inhabitants to have the district described, that he may know whom to notify. The inhabitant notified has no necessity for knowing who else is notified. The notice is to him as an individual. The same section defines the extent of this notice to individuals by saying, when the person is absent from home, he is to be warned by leaving at his place of abode a copy of the notice, *or of so much thereof as relates to the time and place of the meeting*. This is clear and conclusive. It could not be necessary that a personal notice should be more full and particular than is required of a notice left

in the absence of the person notified."—Per FLAGG, *Sup't*, *Com. School Dec.* 18.

If in consequence of the refusal of the trustees of the district or districts, from which a new district is formed, to consent to the proposed alteration, such new district cannot go into operation until after the expiration of three months from the service of notice of such alteration, the notice for the first meeting must be deferred until the expiration of such time ; or at least must specify a day subsequent thereto for the holding of such meeting.

Where a meeting has been held and officers chosen under a notice given by the Town Superintendent, in the mode prescribed by law, a second notice for such organization cannot be given under the pretence that the proceedings of such first meeting were invalid or irregular.—*Com. School Dec.* 176.

On the formation of a new district, if notice for the first district meeting is not given within twenty days, it may be given subsequent to the expiration of that period : the provision requiring the notice to be given within that time being *directory* merely.—*Id.* 358.

#### APPRAISAL AND APPORTIONMENT OF DISTRICT PROPERTY.

Whenever a new district is formed from one or more districts, possessed of a school-house ; and in cases where any district from which such new district may be in whole or in part formed, shall be entitled to other property than its school-house, it is made the duty of the Town Superintendent of common schools, at the time of forming such new district, to ascertain and determine the amount justly due to such new district, from any district out of which it may have been in whole or in part formed, as the proportion of such new district of the value of the school-house and other property belonging to the former district, at the time of such division. Such proportion is required to be ascertained, according to the taxable property of the inhabitants of the respective parts of such former district, at the time of the division, by the best evidence in the power of the Town Superintendent ; and deduction to be made therein for any debts due from the former district. Such proportion, when ascertained, is to

be levied, raised and collected, with the fees for collection, by the trustees of the district retaining the school-house or other property of the former district, upon the taxable inhabitants of their district in the same manner as if the same had been authorized by a vote of their district for the building of a school-house; and when collected, to be paid to the trustees of the new district, to be applied by them towards procuring a school-house for their district; and the moneys so paid to the new district are to be allowed to the credit of the inhabitants who were taken from the former district, in reduction of any tax that may be imposed for erecting a school-house.—§ 67-69. (Nos. 92-94.)

When two or more districts are consolidated into one, the new districts succeed to all the rights of property possessed by the districts of which they may be composed; and when a district is annulled, and portions of it are annexed to other districts, that district into which the school-house, or its site, or any other property of such dissolved district may fall, succeeds to all the rights of the annulled district in respect to such property, and whenever two or more districts or parts of districts shall be united, and there shall be more than one school-house in such new or altered district, the trustees of such district may sell the site and buildings thereon, of either or both the school-houses situated in such new district.—§ 3 of *chap. 260, Laws of 1841, (No. 95.)*

In cases where by the dissolving a district, its school-house, or other property, is annexed to or included in another district, the Town Superintendent of common schools, by whose orders such dissolution is effected, is required to appraise such property in the manner provided by law in cases of the creation of new districts; and the proportions assigned to the inhabitants of such dissolved district who are not annexed to the district which includes the school-house or other property, are to be raised by the trustees of such last mentioned district and paid over to the trustees of the district to which such inhabitants are annexed, in the same manner as in case of the creation of a new district, and to be applied to the same purpose.—*Id.* § 4, No. 96.

When there are any moneys in the hands of the offi-

cers of a district that is or may be annulled, or belonging to such district, the Town Superintendent of common schools of the town may demand, sue for, and recover the same, in their name of office, and are required to apportion the same equitably between the districts to which the several portions of such annulled district may have been annexed, to be held and enjoyed as district property.—*Id.* § 5. (No. 97.)

The books in the district library, and all other personal property, are to be appraised and their value apportioned in the manner above required, as there is no authority for making any partition among the districts.

The money thus received by the new district is not to be paid to the individuals whose portions have been ascertained, but is to be applied by the trustees receiving it, towards procuring a school-house, or a library, and is to be allowed to the credit of such individuals, in reduction of any tax for erecting a school-house, § 69, (No. 94,) and if received on account of the library, to the purchase of books. If the amount of the tax upon any one of those individuals for erecting a school-house is not equal to his portion of the sum raised and paid over to the trustees, yet, as the law positively requires its application towards procuring a school-house, and leaves no discretion on the subject, it must be so applied: and if for any reason no tax shall be levied for the erection of a school-house, the trustees would be justified in applying the amount received to the *repair* of their house, giving credit to the individuals upon any tax levied for that purpose, in the same manner as before mentioned.

It should be borne in mind, that this appraisal and distribution of the value of property on hand, is to be made only when a *new district* is formed; and that the statute does not apply to the case of the mere *alteration* of a district, by the annexation of one or more inhabitants from another district.

Where money is on hand, the Town Superintendent should cause an equitable apportionment of it to be made between the new and old districts.

The appraisal and apportionment of district property is required by the terms of the act, to be made *at the time of the formation of the new district*; and although on a

proper application to the Superintendent, where the rights of all parties can be protected, it will, under special circumstances be allowed to be subsequently made, there are substantial reasons in favor of having the valuation made at that time rather than any other. These reasons are forcibly stated by Mr. Flagg, at page 37 Common School Decisions. "It is just and fair that the old district should know at the time of the division, whether a tax is to be levied to pay for a portion of the school-house, because in many instances the inhabitants would remonstrate against a division of the district, if they knew that a tax would be required to pay those set off for a part of the school-house, when, without such knowledge, they might silently acquiesce in the division. It is also due to those retaining the school-house that they should know whether they are to be taxed, as it might form the principal reason for an appeal against the division of the district; and if the principle were established that the valuation might take place at any time, designing persons might procure the division of a district, and postpone levying the assessment until after the expiration of the time allowed for bringing an appeal, and thus take the inhabitants by surprise, and deprive them of their fair redress in the ordinary way. An additional reason against deferring the valuation of the school-house is, that another portion of the inhabitants of the district retaining the school-house might be detached to other adjoining districts, and leave the proportion of tax still heavier upon those who remained. In forming a new district, therefore, the valuation of the school-house, &c. must be made *at the time of such formation*; and if this is omitted, such appraisement cannot subsequently be made *without an order from the Superintendent of Common Schools*, who will open the whole case, by allowing an appeal both from such appraisal, and from the formation of the new district."

This appraisal and apportionment is to be made in all cases upon the formation of a new district, unless *all* the inhabitants transferred to the new district, expressly *relinquish* their claim to any share of the property of the district from which they are taken. No person set to a new district can without his consent, be deprived of his right to receive a portion of the value of such property; and

this whether he has in any manner contributed to such property or not.

Where persons are annexed to a new district without their consent, and in consequence of having paid a tax for building a school-house in the district from which they were taken, within four years, are not liable to taxation for the same purpose in the new district, their proportion of the value of the school-house of the former district, goes to the benefit of the remaining taxable inhabitants of the new district.—*Com. School, Dec. 196.*

Where, however, inhabitants of a district are transferred *with* their consent, or without objection on their part, to a new district, on its formation, the amount directed to be raised by the trustees of the district from which they were taken, as their proportion of the property of such district, can be applied by the trustees of the new district, only in reduction of any tax which may thereafter be imposed upon the individuals so transferred, for building or repairing school-houses; or if such property consists wholly or in part of a library, for the purchase of books. It is not competent for the inhabitants of the new district to direct any other disposition of such money; nor can the trustees make any different application of it.

In the case of joint districts, the Town Superintendents of the respective towns from parts of which the district is composed, must unite in the appraisal and apportionment of the district property; and the assessment rolls of such respective towns must be consulted as to the valuations of property situated in each.

The amount to which the new district is entitled having been ascertained, the Town Superintendent makes an order, directed to the trustees of the district or districts from which such new district is formed, reciting the appraisal and apportionment, and directing the amount so ascertained to be raised, in the usual manner by tax on the property of the districts retaining the school-house, &c. and paid over to the trustees of the new district. This order may be enforced by the latter, if necessary, by an action at law, against the former.



## FORMATION OR ALTERATION OF JOINT DISTRICTS.

By § 21, (No. 25) of the school act, it is provided that "whenever it may be necessary or convenient to form a district out of two or more adjoining towns, the Town Superintendents of each of such adjoining towns may form, regulate and alter such districts."

In accordance with the spirit of this provision, and of the adjudications under it, it is conceived that the assent of the Town Superintendent, either singly or in conjunction with the supervisors or town clerk, or one of them, of *each* of the towns from which a joint district is partly composed, is essential to the validity of any order forming or altering such joint district. In the formation of joint districts the Town Superintendents, &c. represent their respective towns, and the rights of those whom they represent cannot be voted away by officers representing the inhabitants of another town. The principle has been settled by the decisions of Messrs. FLAGG, DIX and YOUNG, Superintendents, against the dissenting opinion of Mr. SPENCER, that the law does not authorize the question of the formation or alteration of a joint district, to be settled by a joint ballot of the officers representing the several towns, from parts of which it is, or is proposed to be, composed. See *Com. School Dec.* 23, 174.

The moment a single district becomes *joint*, the action of the proper officers of *all* the towns of which it is a part is indispensable to give validity to any alteration in its boundaries; and such alteration, whether its effect is to change a joint to a single district, or to continue the joint district, can be made only by the concurrence of the representatives of each of the towns interested, or of a majority of them, where there are more than one. This construction is in entire accordance with the whole tenor of the Superintendent's decision; and if it is not clear from the language of § 21 that such is the true meaning of that section, all doubt on this point will be dispelled by reference to § 65, which provides for the case of a refusal on the part of the proper officers of one town to act with those of another, for the purpose of altering a joint district." Per DIX, *Sup't Com. School Dec.* 174; modified in conformity to the existing provisions of law

in reference to the proper officers to form, regulate and alter districts. At pages 249 and 253 of the same volume, the same principle is again distinctly recognized and enforced by the same Superintendent. "The consent of the trustees of a joint district to an alteration does not authorize the proper officers of one town to make it without the concurrence of those of the others of which it may be composed. *Each town* of which the district is a part, is concerned in its preservation; and it is only with the consent of the official authority of *each town*, that its boundaries can be enlarged or diminished, excepting when the proper officers of one town refuse or neglect to meet those of the others when their attendance has been required."

By § 65, (No. 84) above alluded to, it is provided that where the Town Superintendent of common schools of any town shall require in writing the attendance of the proper officers of any other town or towns, at a joint meeting, for the purpose of *altering* a school district formed from their respective towns, and a major part of the officers notified shall refuse or neglect to attend, those in attendance may, by a majority of votes, call a special district meeting of such district, for the purpose of deciding on such proposed alteration; and the decision of such meeting shall be as valid as if made by the proper authority of all the towns interested; but shall extend no further than to dissolve the district formed from such towns. The effect of such a dissolution would be to cause the inhabitants and territory of each of the towns from parts of which the joint district had been composed, to revert under the separate jurisdiction of the proper officers of the respective towns, who might make such disposition of them as they should deem most expedient and proper.

Single districts are frequently transformed into joint districts by operation of law, on the division of towns and counties, or the alteration of their boundaries. A district intersected by the line of division between a new town and the town from which it was taken becomes a joint district; and is thereafter subject to the principles and provisions of law applicable to joint districts.

Although the joint action of the requisite legal authority of all the towns from portions of which a joint district is composed, is necessary to any alteration of such district, yet where such alteration involves the *dissolution* of the joint district, the powers of the joint board cease with the order for such dissolution; and the proper officers of each of the towns resume their jurisdiction over the inhabitants and territory belonging to their town. The co-operation of the other members of the joint board, in such subsequent proceedings, although unnecessary and irregular, would not however, it is presumed vitiate the proceedings.

In the formation or alteration of joint districts, a *joint board* must in all cases be formed. The officers of one town cannot *concur* in the proceedings of those of another, at a subsequent period. They have no power to act, either separately or by proxy. They can neither give their consent beforehand to what their colleagues may do, nor can they afterwards in any mode render that valid, which was before illegal and void:

#### GENERAL PRINCIPLES APPLICABLE TO THE FORMATION AND ALTERATION OF DISTRICTS.

The great aim of the officers to whom this duty has been confided should be to form, as far as may be practicable, permanent and efficient districts, competent both in respect to taxable property and number of children, to sustain good schools, for from eight to ten months of each year, and affording all requisite facilities for the regular attendance of all the children entitled to participate in the benefits of the school. Whenever alterations may become necessary or expedient, the utmost care should be taken to secure the general co-operation of the inhabitants interested, and to avoid all those sources of contention and discord which are so fatal to the prosperity, harmony and efficiency of the district. It is better to submit to many temporary and local inconveniences, than to hazard the disastrous results which almost uniformly follow any general dissatisfaction with contemplated alterations, even though such alterations may upon the whole be judicious and advantageous. "The good sense of a district may

be relied upon, to perceive ultimately its true interest, and the loss of time in attaining the desired end is unimportant when compared with the consequences of defeating the wishes of a decided majority," or even of a respectable minority "of a district."

School districts must be composed of contiguous territory: and it has been decided that when a person is set off from one district to another, and there are lands between the farm so set off and the district to which it is annexed, such intermediate territory passes to the latter.

In his annual report to the legislature for the year 1843, the Superintendent, (Col. YOUNG,) observes, "One of the most formidable obstacles to the efficiency of our common schools is believed to be the unnecessary multiplication and subdivision of districts. In those portions of the state where the population is scattered over a large extent of territory, the convenience and accommodation of the inhabitants require the formation of districts comprising a small amount of taxable property, applicable to the support of schools and a limited number of children. But where an opposite state of things exists, the interests of education will be most effectually promoted, by assigning to each district the greatest extent of territory compatible with securing to the children the requisite facilities for their regular attendance at the schools."

In a case coming before him on appeal, in 1835, Gen. DIX observes in reference to this subject: "Almost all the existing evils of the common school system have their origin in the limited means of the school district. The tendency is to subdivision and to a contraction of their territorial boundaries. This consequence must follow in some degree from the increase of population; but the subdivision of school districts tends to advance in a much greater ratio. The average number of children in our school districts is about fifty-five. No school district should number less than forty children between five and sixteen years of age. From the observations he has made, the Superintendent deems it due to the common school system, that no new district shall be formed with a much smaller number, unless peculiar circumstances render it proper to make it an exception to the general rule. In feeble districts, cheap instructors, poor and ill furnished school-

houses, and a general languor of the cause of education are almost certain to be found."—*Com. School, Dec. 220.*

## II. APPORTIONMENT AND PAYMENT OF PUBLIC MONEY.

By subdivisions 5, 6 and 7 of § 20 of the school act, (No. 24) it is made the duty of the Town Superintendents "To apply for and receive from the county treasurer, all moneys apportioned for the use of common schools in their town, and from the collector of the town, all moneys raised therein for the same purpose, as soon as such moneys shall become payable, or be collected, and to apportion the school moneys received by them, on the first Tuesday of April, in each year, among the several school districts, parts of districts, and neighborhoods separately set off, within their town, in proportion to the number of children residing in each, over the age of five and under that of sixteen years, as the same shall have appeared from the last annual reports of their respective trustees. If they shall have received the school moneys of their town, and all the reports from the several school districts therein, before the first Tuesday in April, they shall apportion such moneys as above directed, within ten days after receiving all of the said reports and the said moneys. The practice of making *two divisions* of the public money among the districts in the course of the year, is contrary to the express provision of the statute. The sixth subdivision of section 20 (No. 24) makes it the duty of the Town Superintendent to apportion the school moneys received by him on the *first Tuesday of April* in each year; and by the 7th subdivision of the same section, if he have received reports from all the districts *before* that day, he is to divide the money within ten days after receiving all the reports and the money.

He will receive from the town collector a sum equal to that received from the county treasurer, for the support of common schools and the purchase of books. The aggregate, composed of these two sums, is to be apportioned by him among the school districts of his town, in proportion to the number of children over five and under sixteen years of age, as that number appears by the annual report dated the 1st of January preceding.

The annual reports of the trustees of the several districts are, as will be seen hereafter under the appropriate head required to be made and transmitted to the Town Superintendent, between the first and fifteenth of January in each year; and the public money from all sources is payable immediately after its receipt by the county treasurer and town collector, on the first of February. If, therefore, the reports of the respective trustees are made within the time prescribed by law, ample opportunity will be afforded to the Town Superintendent to point out all errors and deficiencies in them, and to enable the trustees either to make the necessary corrections or to apply to the department for relief, before the apportionment is finally made. In making the apportionment, the Town Superintendent is first to assign to each district, from which the necessary report has been received, or which is entitled to share in the apportionment, its proportion of the public money received from all sources, according to the number of children between the ages of five and sixteen, *designating the respective proportions of teachers' and library money* belonging to each district. This designation will be most readily made by deducting from the aggregate sum to be distributed *one-fifth of double the amount apportioned by the state*, and received from the county treasurer, and making the apportionment accordingly. The teachers' money is to be paid over "on the written order of a majority of the trustees of each district, to the teachers entitled to receive the same." It will therefore be incumbent on the Town Superintendent to satisfy himself, both of the genuineness of the order, and that the person presenting it has the certificate of the trustees that he is or was a teacher of the district, and duly qualified according to law. In order to entitle a district to its share of teachers' money, it must appear from its annual report, "that a school had been kept therein for at least four months during the year, ending at the date of such report, by a qualified teacher," *after obtaining a certificate of competency* from the proper authority; that all the teachers' money received during the year has been expended in the payment of such teacher; "that no other than a duly qualified teacher had at any time during the year for more than one month been employed to teach the school in said

*district ;*" and such report must, in all other respects, be in accordance with law, and the requisitions and instructions of the Superintendent, made in pursuance of law. In other words, it must be in the form prescribed by the Superintendent, and must contain all the information required by law and by the department to be given.

The *library money* is to be paid over to, or on the order of, a majority of the trustees, on its appearing from the annual report that "the library money received at the last preceding apportionment was duly expended according to law, (in the purchase of books suitable for a district library, or in the purchase of maps, globes, black-boards, or other scientific apparatus for the use of the schools, in the cases and in the mode prescribed by law, *on or before the first day of October subsequent to such apportionment.*" The report must uniformly be accompanied with a catalogue of the library, and must state accurately the number of volumes and their condition ; and when the money has been expended in the purchase of apparatus, &c. the authority under which such expenditure has been made, and a full and particular inventory of the articles purchased, must be specifically reported.

By the third subdivision of original section 5, of title 2, of chapter 11, part 1, R. S. (§ 6, of the second edition,) No. 403, the electors of each town are authorized, at their annual meeting, to direct a sum to be raised in their town for the support of common schools, for the ensuing year, not exceeding that required by law to be raised by the board of supervisors for that purpose. The sum that may be thus voted, may be equal to the whole amount which the supervisors are authorized to assess on the town, including both library money and teachers' money. This construction follows from the language of the fourth section of the act of 1838, respecting the U. S. Deposit Fund, which directs that the sum of \$55,000 shall be annually distributed "to the support of common schools ;" although it subsequently directs that it shall be *applied* to the purchase of a library temporarily.

When the money thus voted by a town shall be raised and paid to the Town Superintendent, he should keep a separate account of it, and in his annual report should *state, that of the sum received from the town collector*

so much, (specifying the amount,) was raised by the board of supervisors, and so much, (stating it,) was voted by the inhabitants of the town.

The sum thus received being raised under the authority to a town to vote a tax "for the support of common schools," must be applied solely to that object. The legislature has not authorized the application of it, temporarily or otherwise, for the purchase of a library, as is done in the case of the public money. No part of it can be appropriated to the purchase of books, or to any purpose other than "the support of common schools" in the town. The Superintendent, therefore, is *not* to make any division of such money into library money, and teachers' money, but is to apportion it wholly as school money.

By chapter 257, of the Laws of 1829, in those counties where the distinction between town and county poor is abolished, the inhabitants of towns having any funds in the hands of their overseers of the poor, may appropriate all, or any part of such funds, to such purposes as shall be determined at an annual or special town meeting. If appropriated for the benefit of common schools, it is made a fund for that purpose, and is placed under the charge of the Town Superintendent of common schools of the town. The *interest* is to be applied "to the support of common schools." But the town may, at an annual meeting, direct the whole principal, as well as the interest, to be applied for the benefit of the common schools. [See *vol. 1, 2d ed. Rev. Statutes*, page 351, and *Com. School Decisions*, page 418.]

The Town Superintendent will, therefore, be bound to distribute the interest, and the principal when directed by the town, equally, among the districts. He cannot adopt a more just or convenient ratio than that established by the existing law, in relation to the public money—the number of children above five and under sixteen years of age.

The purchase of district libraries would not be an application "to the support of common schools." They are not intended for the schools exclusively, or particularly, but for the benefit of all the inhabitants, and cannot be said to form any part of "the common schools." No part of the interest or principal of this town fund, there-



fore, can be distributed as "library money;" the whole must be apportioned and paid over as school money.

There are laws of a similar character respecting the gospel and school lots, which are so local and peculiar as not to justify any particular observations concerning them in this connection, except that none of these funds can properly be applied to the purchase of books.

In apportioning and paying the money in their hands to trustees of school districts, the Town Superintendents should bear in mind that the "teachers' money" and the "library money" are entirely independent of each other. The report of the trustees of school districts may entitle them to their "teachers' money" and yet they may not have complied with the conditions upon which they are authorized to receive the "library money." For instance, they may not have expended the latter in the purchase of books; and yet they may have fully complied with the law in regard to their schools. So they may be entitled to "library money," and yet not have had a school kept *four* months by a qualified teacher. In all such cases the money appropriated to the different objects, teachers or library, is to be distributed upon the reports relating to those objects *only*.

By § 15 of the act of 1941, (No. 168,) Town Superintendents are required to apportion and pay to the trustees of colored schools, established in their town, according to the provisions of that section, a portion of the public money, according to the number of colored children between the ages of 5 and 16 years, appearing by the reports of the trustees to have been instructed in such schools for at least four months during the preceding year by a licensed teacher, and to deduct the amount so apportioned from the shares of the districts from which such children have respectively attended.

In all cases where the annual report of the trustees of a district shall not be found in substantial accordance with the law, or the forms or instructions prescribed by the Superintendent, it is the duty of the Town Superintendent to withhold from such district the share of teachers' or library money to which it would otherwise have been entitled, to direct the defaulting trustees to make immediate application to the department, setting forth under oath any

excuse they may have for omitting to comply with the requisitions of law: and to retain the amount apportioned to such district and so withheld, to await the directions of the department in reference to its disposition. In case no directions are received prior to the next succeeding apportionment, the Town Superintendent is to add the amount so retained to the fund for distribution the ensuing year.

By the second section of the act of 1841, (No. 30) it is provided that "Whenever an apportionment of the public money shall not be made to any school district, in consequence of any accidental omission to make any report required by law, or to comply with any other provision of law, or any regulation, the Superintendent of Common Schools may direct an apportionment to be made to such district, according to the equitable circumstances of the case, to be paid out of the public money on hand; or if the same shall have been distributed, out of the public money to be received in a succeeding year." And by the sixth section of chap. 177, Laws of 1839 (No. 185) whenever any library money shall be withheld from any school district, the same may be distributed among other districts complying with such conditions, or may be retained and paid subsequently, to the district from which the same was withheld, as shall be directed by the Superintendent of Common Schools, according to the circumstances of the case.

By §§ 27 and 28 (No.'s 33 and 34) of the school act, "All moneys apportioned by the Town Superintendent to the trustees of a district, part of a district, or separate neighborhood, which shall have remained in the hands of such Superintendent for one year after such apportionment, by reason of the trustees neglecting or refusing to receive the same, shall be added to the moneys next thereafter to be apportioned, and shall be apportioned and paid therewith, in the same manner: and in case any school moneys received by the Town Superintendent cannot be apportioned by him for the term of two years after the same are received, by reason of the non-compliance of all the school districts in the town with the provisions of this title, such moneys shall be returned by him to the county treasurer, to be by him apportioned and distributed, together and in the same manner with the mo-

neys next thereafter to be received by him, for the use of common schools."

If the Town Superintendent knows, or has good reason to believe any district report to be erroneous or false, he may withhold the public money from the district, and submit the facts to the Superintendent.

If after the time when the annual reports are required to be dated, and before the apportionment of the school moneys shall have been made by the Town Superintendent, a district shall be duly altered, or a new district be formed in the town, so as to render an apportionment founded solely on the annual reports, unjust, as between two or more districts of the town, the Town Superintendent is required by § 26 (No. 31) of the school act, to make an apportionment among such districts, according to the number of children in each, over the age of five and under sixteen years, ascertaining that number by the best evidence in his power; and by the first section of chap. 206 of the Laws of 1831, the same provision is extended to all cases where a school district shall have been formed at such time previous to the first day of January, as not to have allowed a reasonable time to have kept a school therein for the term of four months, such district having been formed out of a district or districts in which a school shall have been kept for four months, by a teacher duly qualified, during the year preceding the first day of January.

The apportionment of public money by the Town Superintendent, can in no case be made prior to the first Tuesday in April, except where reports from all the districts and parts of districts in the town, and all the public moneys have been received, before that time; but under certain circumstances it may be made subsequently. The specification of time in the statute is not intended to limit the exercise of the authority of the Town Superintendent in this respect, but may be regarded as directory merely; and it has accordingly been held, that if for any justifiable cause, the apportionment is not made or completed on the day specified, it may be made at a subsequent period.

In all cases where school districts have complied substantially with the law, the trustees may be allowed to

correct their reports, as to mere matter of form, at any time before the money is actually apportioned and paid. A district ought not to lose its money in consequence of a misconception of the law, or a mere clerical error on the part of some of its officers. The Town Superintendent should consider himself the guardian of the equitable rights of the districts, and when he discovers an error as to *form*, which if not corrected would deprive a district of its just share of public money, he should point it out to the trustees, to the end that it may be corrected, and the fair rights of the district secured.—*Per FLAGG and DIX, Sup'ts, Com. School Dec. 36, 181.*

By a regulation of the Superintendent of Common Schools, made in pursuance of law, Town Superintendents are prohibited from paying over the share of library money apportioned to any district in the following cases:

1st. Where a catalogue of the title of all the books in the district library, with the number of volumes of each set or series, and the condition of such books, signed by the trustees and librarian, has not been delivered.

2d. Where the number of books belonging to the library is not stated in the annual report of the trustees.

3d. Where it does not clearly appear from such report that the whole of the library money paid to such district the preceding year has been expended within the time and in the mode prescribed by law: and if for the purchase of maps, globes, or other school apparatus, for what particular articles, and under what authority, or resolution of the district.

4th. Whenever it appears that any portion of the library money of the preceding year has been expended in the purchase of any text-book, or any book *clearly improper* to be admitted into a district library. In cases where there may be room for an honest difference of opinion as to the admissibility of any book or books, purchased by the trustees, the Town Superintendent should include the district in the apportionment of library money and refer the inhabitants aggrieved by such selection to their remedy by appeal.

#### IV. THE INSPECTION AND LICENSING OF TEACHERS, AND THE VISITATION AND SUPERVISION OF THE SCHOOLS.

The Town Superintendent is, by virtue of his office, inspector of common schools of his town; and it is his duty "to examine all persons offering themselves as candidates for teaching common schools in such town." In making such examination it is his duty "to ascertain the qualifications of the candidate in respect to moral character, learning and ability." If he "shall be satisfied in respect to the qualifications of the candidate, he shall deliver to the person so examined a certificate signed by him, in such form as shall be prescribed by the Superintendent of Common Schools."

He may annul any such certificate given by him or his predecessor in office, when he shall think proper, giving at least ten days' previous notice in writing to the teacher holding it, and to the trustees of the district in which he may be employed, of his intention to annul the same.

Whenever he shall deem it necessary, he may require a re-examination of all or any of the teachers in his town, for the purpose of ascertaining their qualifications to continue as such teachers. The annulling of a certificate does not, however, disqualify the teacher to whom it was given, until a note in writing thereof, containing the name of the teacher, and the time when his certificate was annulled, shall be made by the Town Superintendent and filed in the office of the clerk of the town.

Where any school district is composed of a part of two or more towns, or any school-house shall stand on the division line of any two towns, the Town Superintendent of either town may examine into and certify the qualifications of any teacher offering to teach in such district, and may also in the same manner annul the certificate of such teacher.—§ 44-51. (Nos. 54-62) school act.

The duties and powers thus confided to the Town Superintendent are most important and involve great responsibility; and upon their proper fulfilment, depends in a very essential degree, the elevation and improvement of the district schools. If none but properly qualified teachers are permitted to find their way to our schools; if the certificate of the examining officer, and the sanction of his authority, are given only to those who are intel-

lectually and morally fitted adequately to discharge the duties of instructors of youth, "apt to teach," competent to communicate instruction in the mode best adapted to develop the various faculties of the expanding mind, patterns alike of moral and social excellence; these elementary institutions will speedily become the fitting temples of science, the nurseries of virtue, and the pride and boast of the state. Hitherto this duty has been deplorably neglected; and the disastrous consequences are every where visible in the degradation of the district schools; the substitution of private and select schools of every grade, the low estimation in which the profession of the teacher is held, and the miserable pittance—too often most costly in its utmost scantiness—which is reluctantly doled out to the needy and destitute adventurer. A thorough reform in this respect, is imperatively demanded as well by public sentiment, as by a just regard to the paramount interests of education; and no considerations of temporary convenience to a particular district, of favor to individuals, or of regard to the prejudices or preferences of inhabitants or trustees, will, it is hoped, hereafter be permitted in any case to sway the action of the certifying officer, or incline him, either to the right or the left, from the plain path of duty and obligation. A certificate should in no case, and under no circumstances, be granted, unless the candidate is found upon a careful examination, *well qualified to instruct* in all the ordinary branches usually taught in common schools—thoroughly versed in the *principles* of elementary science—capable of readily applying them to any given case, and able to communicate with facility, the results of his knowledge; and unless in addition to this, his character and demeanor are irreproachable, his habits exemplary, and his moral principles undoubted. In order as well to be assured that the impressions resulting from the examination were well founded, as to make himself acquainted with the condition and prospects of the schools, the Town Superintendent should, once at least during each term, *visit and inspect* the schools; and whenever practicable, should be accompanied by the County Superintendent, by the trustees of the districts and such of the inhabitants as may be prevailed upon to attend. It would be attended with the

happiest effects upon the prosperity and advancement of the schools, if the Town Superintendent would annually make to the County Superintendent, a detailed report of the character and condition of the several schools within his town, and of the influences, prosperous or adverse, by which their administration during the current year had been distinguished.—*Exposition of Young, Supt.* 1843.

The certificates of qualification granted by Town Superintendents are to remain in force for one year only; are available only within the town for which they were granted; may be annulled at any time by the officer granting them, or his successor, giving ten days notice in writing, of intention to annul the same, to the teacher and trustees, or by the County Superintendent, with the consent of the Town Superintendent, without such notice, and is to be in the form prescribed by the department.

By §§ 52 and 53 of the school act, (Nos. 63, 64,) it is made the duty of the Town Superintendent to visit all such common schools, within his town, as shall be organized according to law, at least once a year, and oftener if he shall deem it necessary. At such visitation he is required to examine into the state and condition of such schools, both as respects the progress of the scholars in learning, and the good order of the schools; and may give his advice and direction to the trustees and teachers of such schools as to the government thereof, and the course of studies to be pursued therein.

"If the opinions of the best and most experienced writers on primary education, are not entirely fallacious; and if all the results of experience hitherto are not deceptive, the consequences of such a vigorous system of inspection will be most happy. The teachers and pupils will feel that they are not abandoned to neglect; the apprehension of discredit will stimulate them to the greatest effort; while the suggestion of the visitors will tend constantly to the improvement of the schools, and they will themselves be more and more enabled to recommend proper measures from their better acquaintance with the subject."—*Instructions of Spencer, Sup't.* 1841.

A certificate cannot be annulled by the Town Superintendent until ten days' previous notice in writing has been given to the teacher and to the trustees of the district in

which he has been employed, of the intention to annul the same. As the complaint must necessarily be stated, and its truth investigated before any decision, it would be more convenient to the Town Superintendent, and more fair and just to the teacher, to apprise him of its nature, in the notice of intention to annul.

The power of annulling, in all cases, is given to the County Superintendent, with the concurrence of the Town Superintendent.

Certificates of qualification granted by Town Superintendents to teachers, must, in all cases, be in conformity to the form prescribed by the Superintendent of Common Schools. They cannot be granted upon the ground of ability to teach a particular school, for a particular term, or in a particular district. When granted in the form prescribed by the Superintendent, they authorize the holder to teach any school in the town for which they were granted, during any part of the year commencing at their date.

The examination of candidates for teachers should, in all cases, be thorough and strict; and no certificate should be granted unless the examining officer is satisfied as to all the qualifications required by law. "A certificate of qualification in any other form than that prescribed by the Superintendent, is not a compliance with the statute; as for instance, that A. B. gave the examining officer good satisfaction in certain enumerated branches, and that his moral character is good. The law authorizes him to give a certificate in a certain event, and then it must be in the form specified. If he is satisfied as to the qualifications of the teacher, in respect to moral character, learning and ability, he is bound to give him such a certificate as the Superintendent shall have prescribed. If he is not satisfied he should give him no certificate at all. He is wholly unauthorized to take a middle course by *giving a qualified certificate*."—*Per Dix, Sup't of Com. Schools, Dec. 236.*

The certificate must also bear date on the day of examination, and cannot be ante-dated.

Certificates of qualification to candidates for teachers in joint districts, may be granted and annulled by the Town Superintendents of either of the towns from parts of which such joint district is composed. In such cases,



however, a certificate granted by the Town Superintendent of one town should not be annulled by the Superintendent of another having concurrent jurisdiction, unless upon strong and decisive proof of incompetency or immorality; nor, on the other hand, should an application for examination be entertained by the Town Superintendent of either town, unless upon satisfactory proof that such application is original, and that the candidate for examination has not within three months prior to such application been examined and rejected by any officer of concurrent jurisdiction.

The qualifications of teachers are left to the discrimination and judgment of the legal examiners. They must determine the degree of learning and ability necessary for a teacher. They ought to be satisfied that a certificate is given to those only whose learning and ability fit them in all respects to instruct common schools. In revising the school law the revisers inserted a provision that no candidate for teaching should be deemed qualified, unless upon examination he should appear to be well instructed in reading, orthography, penmanship, English grammar, geography and arithmetic, including vulgar and decimal fractions." This provision however, was stricken out by the legislature, and the whole matter is left discretionary. *Com. School Dec. 42.*

In judging of the moral character of a candidate for teacher, if the examining officer knows of any serious imputation or defect of principle, it is his duty to refuse to certify. A certificate may be annulled for immoral habits generally, notwithstanding the teacher may perform all his duties during school hours.—*Id. 46.*

In relation to the moral character of the teacher, much is left to the discretion of the examining officer. He must be satisfied that it is good, because he has to certify to its correctness. On this point what would be satisfactory to one man might be unsatisfactory to another. Every person has a right to the enjoyment of his own religious belief without molestation; and the examining officer should content himself with inquiries as to the moral character of the teacher, leaving him to the same liberal enjoyment of his religious belief that he asks for himself. If however, a person openly derides all religion, he ought not to

be a teacher of youth. The employment of such a person would be considered a grievance by a great portion of the inhabitants of all the districts.—*Per Flagg, Sup't Id. 60.*

Neither the trustees nor the inhabitants of school districts are the judges of the qualifications of teachers. The law has confided the power of examining teachers to officers expressly designated for that purpose; and its object was to secure the employment of competent persons. If the trustees or inhabitants are to determine what their districts require, and the certifying officers are to be governed by their opinions and wishes, the officers themselves might as well be dispensed with. In his annual report to the legislature for the year 1835, the Superintendent of Common Schools (Gen. Dix) observes: "One of the most responsible and delicate trusts to be executed under the common school system is that of inspecting teachers and pronouncing upon their qualifications. If this is negligently conducted or with a willingness to overlook deficiencies, instead of insisting rigidly upon the requirements of the law, it is manifest that men without the necessary moral character, learning or ability, will gain a foothold in the common schools, and present a serious obstacle to the improvements of which they are susceptible. This would be an evil of the greatest magnitude, and there is no remedy for it but a strict inspection of the candidates. It has been the practice in some instances for the inspectors to have a reference to the *particular circumstances of the cases* in giving a certificate. Thus they have sometimes given an individual a certificate with a view to a *summer school*, in which the children taught are usually smaller and require less of the teacher, when the certificate would have been withheld, if it was asked with a view to qualify the teacher for a *winter school*. But it is obvious that such a distinction is wholly inadmissible. A certificate must be unconditional, by the terms of the law. The inspectors must be satisfied with the qualifications of the teacher "in respect to moral character, learning and ability;" and the certificate when once given is an absolute warrant for the individual to teach for a year, and to receive the public money, unless revoked before the expiration of the year, in which case

it ceases to be operative from the date of its revocation. The standard of qualification for teachers, so far as granting certificates is concerned, is of necessity, arbitrary. The law does not prescribe the degree of learning or ability which a teacher shall possess, but virtually refers the decision of this important matter to the inspectors, who have not, neither should they possess the power of relaxing the general rule with reference to the circumstances of any particular case, by departing from the standard of qualification which they assume as their guide in others."—*Id.* 326.

#### IV. ANNUAL REPORT OF THE TOWN SUPERINTENDENT.

By § 29 (No. 35) of the school act, and the succeeding sections, it is made "the duty of the Town Superintendent in each town, between the first day of July and the first day of August, in each year, to make and transmit to the county clerk, a report in writing bearing date on the first day of July, in the year of its transmission, and stating,

1. The whole number of school districts and neighborhoods, separately set off within their town :

2. The districts, parts of districts, and neighborhoods, from which reports shall have been made to him, or his immediate predecessors in office, within the time limited for that purpose :

3. The length of time a school shall have been kept in each of such districts or parts of districts, distinguishing what portion of that time the school shall have been kept by qualified teachers :

4. The amount of public moneys received in each of such districts, parts of districts and neighborhoods :

5. The number of children taught in each, and the number of children over the age of five and under sixteen years, residing in each :

6. The whole amount of moneys received by him or his predecessors in office, during the year ending at the date of his report, and since the date of his last preceding report ; distinguishing the amount received from the county treasurer, from the town collector, and from any other and what source :

7. The manner in which such moneys have been expended, and whether any, and what part, remains unexpended, and for what cause :

8. The amount of money paid for teachers' wages, in addition to the public money paid therefor, in the districts, parts of districts and neighborhoods from which reports shall have been received by him or his immediate predecessors in office, with such other information as the Superintendent of Common Schools may from time to time require, in relation to the districts and schools within his town.

Under this provision the Superintendent has required the following additional items of information to be comprised in such annual reports of the Town Superintendents :

1. The number of times the school in each district has been inspected by the County and Town Superintendents, to be taken from the abstract furnished by the trustees :

2. The number of volumes in the library of each district, as returned by the trustees :

3. The amount of money expended in each school district for teachers' wages, besides and beyond the public money apportioned to such district ; that is, they will condense from the reports of the trustees the amount paid by individuals, on rate-bills or otherwise, and the amount collected from any local funds :

4. The school books in use in their respective towns. This will be compiled from the reports of the trustees, in which the title of each book, and the aggregate number reported in all the districts will be stated :

5. The number of joint districts, the school-houses of which are situated wholly or in part in their town :

6. Whether any fines or penalties have been collected by them, and the amount, as herein before required :

7. The attendance of pupils in the several district schools for the following different terms, viz :

Those who attended less than two months ;

"	"	two months and less than four ;
"	"	four months and less than six ;
"	"	six months and less than eight ;
"	"	eight months and less than ten ;
"	"	ten months and less than twelve ;
"	"	twelve months :

8. The number of select and private schools in their town, other than incorporated seminaries, and the average number of pupils therein, as stated in the reports of the trustees of the several districts :

9. They are also required to condense, from the reports of the several trustees, the number of schools for colored children taught in their town, specifying the districts in which such schools have been taught, the number of colored children, between the ages of five and sixteen, attending such schools ; and the amount of public money apportioned to the respective districts from which such children attended, specifying such districts.

The most common mistake committed by the Town Superintendents is in their report of the moneys received by them, or their predecessors, since the date of the last report. They often confound this money with that received by trustees of districts, which is an entirely different item. This last item is received on the first Tuesday of April, and reported by the trustees on the first of January following, and is embodied in the report of the commissioners among the abstracts of the trustees' reports, in the columns headed "amount of money received in each district." But the money received by the Town Superintendents is that paid to them by the county treasurer and town collector *after* the first of January, and apportioned by them on or before the first Tuesday in April, and is not contained in the reports of the trustees.

In making their annual reports the Town Superintendents should see that the several columns of their table are correctly footed, and the figures plainly and distinctly made.

Town Superintendents neglecting to make such report within the limited period, forfeit severally to their town, for the use of the common schools therein, the sum of ten dollars ; and the share of school moneys apportioned to such town for the ensuing year, may, in the discretion of the Superintendent of Common Schools, be withheld, and be distributed among the other towns in the same county, from which the necessary reports shall have been received. When the share of school moneys apportioned to a town shall thus be lost to the town by the neglect of the Town Superintendents, the officer guilty of such neglect forfeits

to his town the full amount, with interest, of the moneys so lost. It is the duty of the supervisor of the town, upon notice of such loss, from the Superintendent of Common Schools, or county treasurer, to prosecute without delay in the name of the town, for such forfeiture; and the moneys recovered are required to be distributed and paid by such supervisor to the several districts, parts of districts, or separate neighborhoods of the town, in the same manner as it would have been the duty of the Town Superintendent to have distributed and paid them, if received from the county treasurer.—§§ 31, 32, 33. (No. 39-41.)

**V PENALTIES AND FORFEITURES TO BE COLLECTED BY TOWN SUPERINTENDENTS.**

By subdivision 8 of § 20, Rev. Stat. (No. 24,) the Town Superintendent is to sue for and collect by his name of office, all penalties and forfeitures imposed by the title relating to common schools, where no other provision is made. Under this provision he is to prosecute for the sum of ten dollars, forfeited by each Town Superintendent neglecting to make an annual report, imposed by § 31, R. S. (No. 39.) The forfeiture of an amount equal to that lost by his neglect, imposed by § 32, (No. 40,) is to be sued for by the supervisor. He is also to prosecute for the penalty of one hundred dollars, imposed by § 38, (No. 46,) upon his predecessors for refusing to render an account, or neglecting to pay over a balance on hand; also for the penalty of five dollars prescribed by § 58, (No. 60,) upon the refusal or neglect of any inhabitant of a district to serve the notice of the first meeting; the same penalty for altogether refusing to serve in a district office; and the penalty of ten dollars for neglecting to perform the duties of a district office, not having refused to accept the same. This last penalty must be distinguished from that imposed by § 6 of the act of May 3, 1839, (No. 166.) That given by No. 100, (§ 72,) is to be recovered for *wholly neglecting* to perform the duties of a district office, which the incumbent has colorably accepted; see 6 Cowen, 479; while the forfeiture prescribed by No. 166, (§ 6, act of May 3, 1839,) is for the neglect of *any specific duty*, and may be collected for any one wilful omission; and the latter is to be sued for by the supervisor of the town.

He is also to prosecute for the penalty of twenty-five dollars imposed by § 96, R. S. (No. 145,) upon every trustee who signs a false report, with the intent of obtaining an unjust proportion of the school moneys of the town. Justice to the several districts requires that the Town Superintendents should be vigilant in detecting such errors, and in applying the remedy provided by law, in all cases where they arise from design.

The sums collected by him in suits for penalties, after deducting his costs and expenses, are to be added to the school moneys received by him during the year, and apportioned among the several districts.

#### VI. MISCELLANEOUS DUTIES.

By § 34, (No. 42,) and the succeeding sections, the Town Superintendent in each town is required to keep a just and true account of all school moneys received and expended by him during the year for which he shall have been chosen, and to lay the same before the board of auditors of the accounts of other town officers at the annual meeting of such board in the same year. Within fifteen days after the termination of his office he is required to render to his successor in office a just and true account, in writing, of all school moneys by him received, before the time of rendering such account, and of the manner in which the same shall have been appropriated and expended by him; and the account so rendered is to be delivered by such successor in office to the town clerk, to be filed and recorded in his office. If, on rendering such account, any balance shall be found remaining in the hands of the Town Superintendent, the same is immediately to be paid by him to his successor in office. If such balance, or any part thereof, shall have been appropriated by the Town Superintendent to any particular school district, part of a district or separate neighborhood, and shall remain in his hands for the use thereof, a statement of such appropriation is required to be made in the account so to be rendered, and the balance paid to such successor in office, to be paid over by him, according to such appropriation. **Every Town Superintendent of common schools, who shall refuse or neglect to render such an account as is above**

required, or who shall refuse or neglect to pay over to his successor in office, any balance so found in his hands, or to deliver a statement of the appropriation, if any there be, of such balance, for each offence, forfeits the sum of one hundred dollars. It is the duty of such successor in office to prosecute, without delay, in his name of office, for the recovery of such forfeiture, and to distribute and pay the moneys recovered, in the same manner as other school moneys received by him. Such successor in office may bring a suit in his name of office, for the recovery, with interest, of any unpaid balance of school moneys that shall appear to have been in the hands of any previous Town Superintendent on leaving his office, either by the accounts rendered by such Town Superintendent, or by other sufficient proof. In case of the death of such Town Superintendent, such suit may be brought against his representatives, and all moneys recovered are to be applied in the same manner as if they had been paid over without suit.

By § 42, the Town Superintendent of common schools in each town, has the powers and privileges of a corporation, so far as to enable him to take and hold any property transferred to him for the use of common schools in such town.

A mere *transfer* of vouchers or receipts, by a Town Superintendent, on the expiration of his official term, is not such an *account* as the law contemplates. There must be a *written statement* of the amount of moneys received, appropriated, and expended by him; and this statement must be filed and recorded by the town clerk.—*Com. School Dec. 189.*

The written approbation of the Town Superintendent is, by the 13th section of the act of 1843, (No. 134) made requisite to the validity of any second or subsequent renewal of a school district warrant for the collection of a tax list or rate bill. This approbation should be granted only where a satisfactory excuse is shown for the omission to collect the amount specified in the warrant within the time prescribed by law, and extended by one renewal; taxes and rate bills should be promptly collected; and in ordinary cases sixty days affords ample time for this pur-



pose; and further indulgence should in no case be granted excepting under special and peculiar circumstances.

By § 64 (No. 83) of the school act, it is provided that "no tax to be voted by a district meeting, for building, hiring or purchasing a school-house shall exceed the sum of four hundred dollars, unless the Town Superintendent of common schools of the town in which the school-house is to be situated, shall certify in writing, his opinion that a larger sum ought to be raised, and shall specify the sum; in which case, a sum not exceeding the sum so specified shall be raised." And by § 1 of chap. 44, Laws of 1831, (No. 85,) "Whenever a school-house shall have been built or purchased for a district, the site of such school-house shall not be changed, nor the building thereon be removed, as long as the district shall remain unaltered, unless by the consent, in writing, of the Town Superintendents of Common Schools, of the town or towns within which such district shall be situated, stating that in their opinion such removal is necessary; nor then, unless two-thirds of all those present at a special meeting of such district, called for that purpose, and qualified to vote therein, shall vote for such removal and in favor of such new site."

Town Superintendents are bound to furnish answers to all appeals brought from any of their proceedings.—*Com. School Dec. 187.*

Where a school district is established by the County or State Superintendent on appeal, Town Superintendents have no power to alter, modify or dissolve the same, without express authority from such County or State Superintendent: nor can they, without such authority, re-establish a district, or re-publish an order after their proceedings in the same matter have once been set aside on appeal.

Where any school district office is vacated by the death, refusal to serve, removal out of the district, or incapacity of any officer, and the vacancy occasioned thereby shall not be supplied by a district meeting, within one month thereafter, the Town Superintendent may appoint any person residing in the district to supply such vacancy, § 99 (No. 71.) If, however, the district, by election, fills the vacancy *after* the expiration of the month, and prior to the action of the Town Superintendent, such election

is valid, and the Town Superintendent cannot subsequently make an appointment.—*Com. School Decisions*, 179.

By § 33 of the act of 1941, (No. 167) it is provided that "In any suit which shall hereafter be commenced against Town Superintendents of Common Schools, or officers of school districts, for any act performed by virtue of, or under color of, their offices, or for any refusal or omission to perform any duty enjoined by law, and which might have been the subject of an appeal to the Superintendent, no costs shall be allowed to the plaintiff in cases where the court shall certify that it appeared on the trial of the cause that the defendants acted in good faith. But this provision shall not extend to suits for penalties, nor to suits or proceedings to enforce the decisions of the Superintendent."

By § 6 of chap. 330 of Laws of 1839, (No. 166,) "Town Superintendents of common schools, and trustees and clerks of school districts, refusing or wilfully neglecting to make any report, or to perform any other duty required by law, or by regulations or decisions made under the authority of any statute, shall severally forfeit to their town, or to their district, as the case may be, for the use of the common schools therein, the sum of ten dollars for each such neglect or refusal, which penalty shall be sued for and collected by the supervisor of the town, and paid over to the proper officers, to be distributed for the benefit of the common schools in the town or district to which such penalty belongs; and when the share of school or library money apportioned to any town or district, or any portions thereof, or any money to which a town or school district would have been entitled, shall be lost in consequence of any wilful neglect of official duty by any Town Superintendent of common schools, or trustees or clerks of school districts, the officers guilty of such neglect shall forfeit to the town or district the full amount, with interest, of the moneys so lost; and they shall be jointly and severally liable for the payment of such forfeiture."

**FORMS PRESCRIBED AND RECOMMENDED BY THE SUPERINTENDENT  
OF COMMON SCHOOLS FOR THE USE OF TOWN SUPERINTENDENTS.**

**1. Form of Bond to be given by the Town Superintendent to the  
Supervisor, within ten days after his election or appointment.**

Know all men by these presents, that we A. B., C. D., and E. F., of the town of — in the county of — are held and firmly bound to J. K. Esq., Supervisor of said town, in the penal sum of [double the amount of school money received in said town from all sources during the preceding year,] to be paid to the said J. K. or his successor in office; to the which payment, well and truly to be made, we bind ourselves and our legal representatives, jointly and severally, firmly by these presents. Witness our hands and seals this — day of June, 1843.

Whereas the said A. B. has been duly elected [or appointed] Town Superintendent of Common Schools for the said town of —: Now therefore, the condition of this obligation is such, that if the said A. B. shall faithfully apply and legally disburse, all the school money which may come into his hands during his term of office as such Town Superintendent, then this obligation to be null and void; otherwise to remain in full force and virtue.

*Signed, sealed and deli-  
vered in presence of*

A. B. [L. s.]  
C. D. [L. s.]  
E. F. [L. s.]

(Endorsement.) "I hereby approve of C. D. and E. F. as sureties to the within bond."  
J. K.

**2. Form of a resolution creating a New District.**

At a meeting, &c.

*Resolved*, That a new school district be formed, to consist of [the present Districts No. 1 and No. 2; or the present District No. 1 and a part of District No. 2; or parts of Districts No. 1 and No. 2, as the case may be,] which said new district shall be numbered [23,] and shall be bounded as follows: [on the north by the north line of the town of *Trenton*: on the east by the easterly line of the farms and lots of land now occupied by *Thomas Jones, William Thomas, &c.*; on the south by the south line of lots No. 56, 57 and 58, as designated on the map of said town; and on the west by the westerly line of the farms and lots now occupied by A, B, C, D, &c.]

The formation of the aforesaid district, involving an alteration of District No. [1 and No. 2,] the consent of the trustees of the said districts to such alteration has been presented to the Town Superintendent, and filed with the town clerk. [Or, if such consent has not been given, the following entry should be made: The formation of the aforesaid district, involving an alteration of districts No. 1 and 2, and the consent of the trustees of District No. 1 to such alteration not having been given, it is ordered that a notice in writing of the said alteration, signed by the Town Superintendent, be served on one of the trustees of the said district, by the clerk of the town Superintendent.]

2. The consent of the trustees of the altered district may be given by endorsing it on a copy of the order, as follows:

We hereby consent to the alterations made in District No. 1, in the town of *Trenton*, by the order of which the within is a copy. Dated, &c.

A. B. } Trustees of district  
C. D. } No. 1.  
E. F. }

This consent, like all other acts of trustees, should be given at a meeting of the whole, or a majority, when all have been notified to attend. The statute does not require it to be in writing; but it is advisable to prevent disputes, that a written consent should be filed with the town clerk.

3. *Form of notice to trustees not giving their consent to an alteration of their district.*

The Trustees of District No. 1, in the town of *Trenton* will take notice, that an order was made this day by the Town Superintendent of Common Schools of the said town, of which the following is a copy, by which certain alterations in the said district are made, as will appear by the said order; and that such alterations will take effect after three months from the service of this notice. Dated, &c.

G. H., Town Superintendent of Common  
Schools of the town of *Trenton*.

[Here insert copy of order of Town Superintendent.]

This notice may be served on any one of the trustees; and it will be found useful to have an acknowledgement of the service by the trustee receiving the notice, endorsed on a copy of it, and filed with the town clerk.

4. *Notice of the First Meeting in a District to organize.*

This is required by law to be given within twenty days after the formation of any district. If the consent of the trustees of the districts interested has been given to the alterations covered by the order, then the notice should be for a day as early as may allow sufficient time for general information. But if it be necessary to give notice of the alteration to the trustees of any district, then the notice for the first meeting should specify a day subsequent to the expiration of three months after service of the notice of alteration, because the district cannot organize until after that time.

The notice may be in the following form:

To ———, a taxable inhabitant of District No. 23, in the town of *Trenton*.

The Town Superintendent of Common Schools of the town of *Trenton*, having by an order, of which the following is a copy, formed a new district in the said town to be numbered 23, consisting of the territory particularly specified in the said order; you are hereby required to notify every inhabitant of the said district qualified to vote at district meetings, to attend the first district meeting of the said district, which is hereby appointed to be held at the house of ——— in the said town, on the ——— day of ——— next, at 6

o'clock in the afternoon, by reading this notice in the hearing of each such inhabitant, or in case of his absence from home, by leaving a copy of this notice, or of so much thereof as relates to the time and place of such meeting, at least six days before the said time so appointed for the said meeting, Dated, &c.

A. B., *Town Superintendent of Common  
Schools of the town of Trenton.*

A copy of the order forming the district should be annexed to this notice, as the most convenient mode of describing the district, and most likely to prevent errors.

The inhabitant serving the notice should keep a memorandum of the names of the persons notified by him, specifying the manner of notifying, whether by reading or leaving a copy, or the substance of the notice, at the place of abode of any absent voter; and this memorandum, certified by him, should be delivered to the chairman or clerk of the district meeting and read, that it may be ascertained whether notice has been duly given so as to justify the voters in proceeding to the transaction of business; and the original notice and return should be filed with the district clerk, as evidence of the regularity of the organization.

*b. Form of order by Town Superintendent to Trustees, on the appraisal and apportionment of the value of the school-house and other property of a district, on the formation of a new district.*

To the Trustees of District No.            in the town of            :

The Town Superintendent of Common Schools of said town, having formed a new district, numbered as District No. 23, to which certain persons belonging to your district have been attached, and having valued the school-house and other property belonging to your district at 150 dollars, I do determine that the amount justly due to such new district is fifty dollars apportioned to the several persons set off, as follows: To A. B. 20 dollars, C. D. 15 dollars, E. F. 10 dollars, G. H. 5 dollars.

You are therefore, according to the statute relating to common schools, to levy and collect the sum of fifty dollars, from the taxable inhabitants remaining in District No.            after the alteration alluded to, and pay the same to the Trustees of said new District No. 23.

Given under my hand at            this            day of            18             
A. B. *Town Superintendent.*

6. By § 4 of the act of May 26, 1841, (No. 96,) a similar appraisal of the property belonging to a *dissolved district* is to be made; as in that case, by the previous section 3, (No. 95,) the new or altered district succeeds to the rights of the dissolved or annulled district, in such property as falls within such new or altered district. The proceedings and forms for such appraisal will be like those already given on the formation of a new district.

*7. Form of a resolution for the alteration of a district.*

At a meeting of, &c.,

*Resolved*, That districts number 1 and number 2, in the said town, be altered as follows, viz: by setting off the farms and parcels of land occupied by *John Brown, Thomas Jones and William Richards*, from District number one, in which they have heretofore been included to District number two; so that the east boundary of District number one shall hereafter be the easterly line of the farms and parcels of lands occupied by A. B. C. D. &c., and the westerly boundary of district number two shall be the westerly lines of the farms and parcels of land occupied by the said *John Brown, Thomas Jones and William Richards*; the said *John Brown* having consented to be set off as aforesaid. The written consent of the trustees of the said districts number one and two, having been presented to the Town Superintendent, is filed with the town clerk; [or, The consent of the trustees of the said districts respectively, (or of district No. 1 or 2, as the case may be,) not having been given to the said alteration, it is ordered, that a notice in writing of such alteration, signed by the Town Superintendent, be served by the clerk, on some one of the trustees of each of the said districts, (or of district No. 1 or 2.)]

In the above form, it will be seen that the new boundaries of the districts, caused by the alteration, are given. This is deemed very necessary in order to prevent all mistake or ambiguity, and to preserve a continual record of the actual bounds of the districts. If any of the persons set off consent to the alteration, it should be stated, so that the trustees may know whether he is taxable for building a school-house.

The consent of trustees to the alteration, and in case of their not consenting, the notices to them, will be as before given under the 2d and 3d heads.

*8. Proceedings in the formation or alteration of a Joint District, from two or more towns.*

The proceedings in the formation of a joint district will be in all respects similar to those previously given in relation to ordinary cases, with the following additions:

As there is no clerk assigned by law to the joint meeting, the officers present should sign the proceedings.

The caption should give the names of the towns to which the Town Superintendents belong; and the resolutions should be recorded in each of those towns.

*9. Form of certificate to Teacher by Town Superintendent.*

I hereby certify that I have examined A. B. and do believe that he [or she] is well qualified, in respect to moral character, learning and ability, to instruct a common school in this town for one year from the date hereof.

Given under my hand at this day of 18  
C. D., Town Superintendent of Com-  
mon Schools for the town of

10. *Form of instrument annulling a Teacher's Certificate.*

Having inquired into certain complaints against A. B., heretofore licensed as a teacher of common schools of said town, and being of opinion that he, the said A. B., does not possess the requisite qualifications as a teacher, in respect to moral character, [or "in respect to learning," or "in respect to ability in teaching," as the case may be,] and having given at least ten days' previous notice in writing to said teacher, and to the trustees of the district in which he is employed, of the intention so to do, I have annulled and hereby do annul the said certificate and license so granted as aforesaid.

Given under my hand this       day of       184 .

C. D., Town Superintendent  
of Common Schools.

As a note in writing, containing the name of the teacher, and the time when his certificate was annulled, must be filed in the town clerk's office, to give it effect, the most convenient and effectual mode of complying with the law, will be to make out, sign and file a duplicate of the instrument itself.

11. *Form of the Annual Report of the Town Superintendent of Common Schools, to be made to the County Clerk.*

I, A. B., Town Superintendent of common schools of the town of       in the county of       in conformity to the statutes in relation to common schools, do report: that the number of entire school districts in said town, organized according to law, is [eight,] and that the number of parts of school districts in said town, is [five]; that the number of joint districts, the school-houses of which are situated wholly or partly in said town, is [three]; that the number of entire districts from which the necessary reports have been made for the present year, within the time limited by law, is [eight,] and that the number of parts of districts from which such reports have been made, is [five.] That the number of schools for colored children taught in said town during the year aforesaid, for four months or upwards, by a duly qualified teacher, was [two.]

And I do further certify and report, that the whole amount of money received by me, or my predecessors in office, for the use of common schools, during the year ending on the date of this report, and since the date of the last report, for said town, is \$       of which sum the part received from the county treasurer is \$       the part from the town collector is \$       and that we have collected the sum of \$       for penalties (if any has been collected,) [and if there be any other source from which any part has been received, here state it particularly.] That the said sum of money has been apportioned and paid to the several districts from which the necessary reports were received, for the purposes and in the proportions following, viz: the sum of \$       for the payment of teachers' wages, and the sum of \$       for the purchase of district libraries. That the sum of \$       was apportioned by me to district No.       for colored children in said district between the ages of 5 and 16 years, who have attended a school taught in district No.       in said town, by a duly qualified teacher. for four months during the preceding

year; and \$      to district No.      for      colored children so attending in said district; and that I have deducted the said several amounts from the sums by me apportioned to the said districts Nos.      and      respectively. And I further certify that during the year before mentioned, I have not collected any fines, penalties or forfeitures: [or, And I further certify that during the year before mentioned, I have collected a penalty of \$25, imposed on A. B. a trustee of district No.      in said town, for signing a false report; and that my costs and charges in such collection amounted to \$      ; and that the balance of such penalty was by me added to the school money received by me and apportioned as above mentioned.] That the school books most in use in the common schools of said town are the following, viz: [*here specify the principal books reported by the several trustees.*] And I further certify the tables following, to be true abstracts from the reports of the trustees of the several districts and parts of districts as aforesaid:

Districts and parts.	Districts & parts of districts from which reports have been made.	Whole length of time any school has been kept therein.		Length of time such school has been kept by licensed teachers.		Amount of money received by districts.			
						For teachers' wages.		For libraries.	
		Months.	Days.	Months.	Days.	Dols.	Cts.	Dols.	Cts.
DISTRICTS.	No. .... 1	6	.....	3	.....	10	80	5	18
	2	4	.....	4	.....	17	88	8	94
	3	8	12	8	12	15	76	7	88
	4	8	.....	4	.....	21	51	10	76
	5	6	.....	6	.....	21	21	10	62
	6	4	.....	4	.....	16	06	8	04
	7	4	.....	4	.....	11	51	5	76
	8	9	12	4	.....	14	54	7	27
PARTS OF DISTRICTS.	9	10	6	10	6	9	70	4	88
	10	6	.....	3	.....	4	58	2	27
	11	6	.....	6	.....	8	48	4	24
	12	3	6	3	6	8	18	4	09
	13	8	.....	8	.....	8	79	4	39
Total, .		13	83	35	65	28	168 47	84	26

[Continuation of Table on next page.]



## COMMON SCHOOL SYSTEM.

PARTS OF DISTRICTS.		No. of districts.	No. of children taught.	No. of do. over 6 and under 16 in each district.	Amount paid for teachers' wages besides public moneys.	No. of children between 5 & 16 taught in colored schools.	Amount of public money received from child'n attending colored schools.	Amt. paid for teachers' wages in col'd schools besides pub. money.	No. of times visited by co. supt.	No. of times visited by town superintendent.	No. of pupils who have attended less than 2 mos.	2 months and less than 4.	4 months and less than 6.	6 months and less than 8.	8 months and less than 10.	10 months & less than 12.	12 months.	Number of sect and private schools.	No. of pupils attending.	No. of vols. in district library.

Dated at Trenton, this first day of July in the year of our Lord one thousand eight hundred and A. B., Town Superintendent of Common Schools.

## CHAPTER III.

### POWERS AND DUTIES OF INHABITANTS OF SCHOOL DISTRICTS.

By § 62 (No. 78) of the school act, it is provided that "an annual meeting shall be held at the time and place previously appointed; and at the first district meeting, and at each annual meeting, the time and place of holding the next annual meeting shall be fixed."

Annual meetings need not be precisely one year apart. The time may be a few days or weeks more or less than a year, if the inhabitants think it necessary. For instance, an annual meeting held on the *first* Tuesday of October may be adjourned to the *second* Tuesday of October of the next year. The propriety of the act in every case must depend upon the circumstances attending it. No general rule as to the extent of the variation from a year can be laid down as applicable to all cases.—*Com. School Dec. 289.*

It is proper, however, to observe, that as by the act of 1843 one trustee only is hereafter to be annually elected, who holds his office for *three years*, and as in case of a vacancy, such vacancy is to be supplied only for the unexpired term left vacant, the variations in the time of holding the annual meeting ought not to exceed three or four weeks. The time from one annual meeting to another must always be considered and treated as one year.

By § 17 of the act of 1841, (No. 79,) "Whenever the time for holding annual meetings in a district, for the election of district officers shall pass without such election being held, a special meeting shall be notified by the clerk of such district to choose such officers; and if no such notice be given by him or the trustees last elected or appointed, within twenty days after such time shall have passed, any inhabitant of such district qualified to vote at district meetings, may notify such meeting in the manner

provided by law in case of the formation of a new district; and the officers chosen at any such special meeting, shall hold their office until the time for holding the next annual meeting."

By § 4 of chap. 360, Laws of 1839, (No. 80,) "When the clerk, and all the trustees of a school district, shall have removed, or otherwise vacated their office, and where the records of a district shall have been destroyed or lost, or where trustees neglect or refuse to call meetings to choose trustees, the Superintendent of Common Schools shall have authority to order such meetings."

By § 18 of the act of 1941, (No. 81) "When in consequence of the loss of the records of a school district, or the omission to designate the day for its annual meeting, there shall be none fixed, or it cannot be ascertained, the last trustee of such district may appoint a day for holding the annual meeting of such district."

If an annual meeting is held at the time and place appointed at or adjourned from the annual meeting of the preceding year, the proceedings will be deemed valid, notwithstanding the omission of the clerk to give the notices prescribed by law.

Where the place and time of day for holding the annual meeting are not designated by the inhabitants, the usual place and time of day for holding such meetings will be understood, and the notices of the clerk should correspond thereto. When assembled, the inhabitants may adjourn to any other convenient place: but the clerk cannot, in his notices for the annual meeting, designate any other than the usual place for holding such meeting, where the inhabitants at their last annual meeting omitted to specify any place.—*Com. School Dec.* 129, 141.

The law has not specified what number of inhabitants shall constitute a quorum for the transaction of business at a district meeting, annual or special: and accordingly the proceedings, if otherwise regular, will not be disturbed by reason of the paucity of attendance on the part of the inhabitants, where the notice has been fair and public, and there is no room for the allegation of surprise. A reasonable time, should, however, be allowed for the inhabitants to assemble, after which those in attendance may legally proceed to the transaction of any district business.

By § 63 (No. 82) it is provided that "a special meeting shall be held in each district whenever called by the trustees; and the proceedings of no district meeting, annual or special, shall be held illegal, for want of a due notice to all the persons qualified to vote thereat, unless it shall appear that the omission to give such notice was wilful and fraudulent."

This latter provision was intended for cases where through accident or mistake, the proper legal notice has not been given to *all who are entitled to it*: but it cannot be construed to extend to cases in which *no attempt* is made to give the notice required by law to *any* of the inhabitants. Where the clerk of a district undertakes to give a notice in the manner provided by the statute, and has failed, unintentionally, to serve such notice on all the persons entitled to receive it, or where such notice is imperfectly served, the proceedings of the meeting will not be *void* on that account. They may, however, be *set aside* on appeal, on showing sufficient cause.—*Com. School Dec.* 186, 223.

The law does not, in terms, prescribe that the *object* for which a special meeting is called shall be stated in the notice for such meeting. This duty is however enjoined by the Superintendent.—*Com. School Dec.* 354.

The opportunities afforded by the coming together of the inhabitants of each district, for deliberation and consultation in relation to their schools, and the various interests connected therewith, are calculated to exert a most beneficial influence in favor of education; to promote union, harmony and concert of action in the several districts; and to cement the ties of friendly social intercourse between those having a common interest in the moral and intellectual culture of their children. It is, therefore, of the utmost importance that they should not be neglected; that the inhabitants should be prompt and uniform in their attendance; and that the proceedings should be invariably characterized with that order, regularity, dignity and decorum which can alone command respect, and advance efficiently the objects to be accomplished. To secure as far as possible the attainment of these desirable ends, it is proposed in this place to examine the powers and duties of the inhabitants, when assembled in district meeting, the

mode of proceeding, the keeping of the minutes and records, the qualifications of voters, and some other subjects of general interest, connected with the proceedings of district meetings.

I. POWERS AND DUTIES OF INHABITANTS WHEN ASSEMBLED IN DISTRICT MEETING.

These are particularly specified in § 61, (No. 74,) of the original act, and have been considerably extended by subsequent enactments, which will be noticed in their order. They are, to appoint a moderator; to adjourn from time to time as occasion may require; to choose district officers at their first meeting upon the organization of the district, and as often as *vacancies* occur, by expiration of the term of office, or otherwise; to designate a site for a district school-house; to lay such tax on the taxable inhabitants of the district as the meeting shall deem sufficient to purchase or lease a suitable site for a school-house, and to build, hire, or purchase such school-house, and to keep in repair and furnish the same with necessary fuel and appendages; and to repeal, alter and modify their proceedings from time to time as occasion may require.

By the 10th section of the act of 1841, (No. 76,) the inhabitants are authorized, with the consent of the Town Superintendent of common schools, to designate sites for *two or more* school houses for their district, and to lay a tax for the purchase or lease thereof, and for the purchase, hiring or building of school houses thereon, and the keeping in repair and furnishing the same with necessary fuel and appendages.

This provision authorizing more than one site and school house, is intended for the accommodation of those districts that may be so peculiarly situated as to render a division inconvenient or not desirable. A banking or other corporation, or some manufacturing establishment liable to taxation, may thus be rendered beneficial to a large territory and a greater number of inhabitants, instead of having its contributions applied for the benefit of a few. And in populous places, it may often be convenient to have a *school* for very young children distant from that attended

by those more advanced. In these and other cases, the districts should not hesitate to exercise the power given by this section. But they should in all cases obtain the *previous assent* of the Town Superintendent.

The same section authorizes the inhabitants, in their discretion and without the assent of the Town Superintendent, to levy a tax not exceeding twenty dollars in any one year, for the purchase of maps, globes, black-boards and other school apparatus. The principal facts in geography are learned better by the eye than in any other manner, and there ought to be in every school-room a map of the world, of the United States, of this state and of the county. Globes also are desirable, but not so important as maps. Large black-boards, in frames, are indispensable to a well conducted school. The operations in arithmetic performed on them, enable the teacher to ascertain the degree of the pupils' acquirements, better than any result exhibited on slates. He sees the various steps taken by the scholar, and can require him to give the reason for each. It is in fact an exercise for the entire class; and the whole school, by this public process, insensibly acquires a knowledge of the rules and operations in this branch of study.

Cards containing the letters of the alphabet, or words, may be usefully hung up in the room. Indeed the whole apparatus provided by Mr. Holbrook and others, is eminently calculated to facilitate the acquisition of knowledge and to render it agreeable.

The amount of the tax which may be voted for the purchase or lease of sites for the district school-house, and for the repairs, furniture, fuel and appendages, is left wholly to the discretion of the district, and is unlimited by law: but no tax for building, hiring or purchasing a school-house can exceed the sum of four hundred dollars, unless on the certificate of the Town Superintendent that a larger sum, specifying the amount, ought, in his opinion, to be raised; in which case a sum not exceeding the sum so specified, may be raised. § 64, (No. 83.) If the district under the act of 1841, raise a tax for building, hiring or purchasing *two or more* school-houses, a tax for *each* may be levied, to the amount of \$400, without a certificate from the Town Superintendent.

By the sixth section of chapter 241, of the Laws of 1837, (No. 77,) the inhabitants of the several school districts are authorized to vote a tax for the purchase of a book for the purpose of recording the proceedings of the district; and which by sub. 1 of § 74, (No. 102,) *must be* provided to enable the clerk to perform his duty.

By the fourth section of chap. 44 of the Laws of 1831, (No. 88,) the inhabitants are authorized, whenever the site of their school-house has been legally changed, to direct the sale of the former site or lot, and the buildings thereon, and appurtenances, or any part thereof, at such price and upon such terms as they shall deem most advantageous to the district.

By the 16th section of the act of 1843, it is provided that "whenever the number of volumes in the district library of any district numbering over fifty children between the ages of five and sixteen years, shall exceed one hundred and twenty-five; or of any district numbering fifty children or less, between the said ages shall exceed one hundred volumes, the inhabitants of the district qualified to vote therein, *may, at a special meeting, duly notified for that purpose*, by a majority of votes, appropriate the whole or any part of library money belonging to the district for the current year, to the purchase of *maps, globes, black-boards, or other scientific apparatus, for the use of the school.*"

The object of this enactment is two-fold. It is designed in the first instance, to secure to every district at least one hundred volumes of suitable books for a district library; and to districts numbering over fifty children, one hundred and twenty-five; and in the second, to authorize the inhabitants of any district so supplied, when duly convened for that special purpose, to appropriate so much of the library fund for the current year, as they may think proper, to the purchase of maps, globes, black-boards or scientific apparatus, for the use of the school. In the absence of any such appropriation, or whenever any balance remains unappropriated, the library money, or such unappropriated balance, must be applied to the purchase of books; and in any event, that money must be expended for the one or the other of these purposes, on or before the first day of October in each year. It is respectfully

recommended to the inhabitants of those districts which are already supplied with the requisite number of books, and of others, whenever they shall reach the specified number, to avail themselves of the power thus conferred upon them, to supply their school with those useful articles of scientific apparatus which so materially conduce to the improvement of the pupils. Independently of this appropriation, no district should dispense with a black-board; and if suitable maps, globes and a few of the more simple means of illustrating the elementary truths of science, can be superadded, the library money for two or three years cannot perhaps be more advantageously appropriated. In the mean time, the books on hand can be generally read; and such additions to the library as the growing wants and increased intelligence of the district may require, can then be from time to time procured. The advice of the Town and County Superintendent may at all times be had as to the most proper and judicious appropriation of the fund for the purposes provided for by the section under consideration.

By the provision of the several acts relative to school district libraries, (No. 175 *et seq.*) the inhabitants of the several districts are authorized to lay a tax, not exceeding twenty dollars for the first year, and ten dollars for each subsequent year, for the purchase of a district library, *consisting of such books as they shall in their district meeting direct*, and such further sum as they may deem necessary for the purchase of a book-case; and also to appoint a librarian, who is to have the care and custody of the library so purchased, under such regulations as they may adopt for his government.

These provisions, it will be observed, are entirely distinct from those which relate to the purchase of books with the public moneys provided by the act of 1838. They are confined to such books as are obtained by means of a district tax; and wherever the inhabitants do not choose to place the latter on the same footing with the former, the distinction should be carefully observed. The library directed to be purchased with the public money provided for that purpose, is to be selected by the *trustees*; the inhabitants have no direct control over such selection; and the rules and regulations for its government are to be



prescribed by the Superintendent alone; while the library to be raised by *tax must* consist of such books as the inhabitants in district meeting shall direct; and the rules and regulations for its management may be adopted at such meeting. Still *both* classes of books may be placed upon substantially the same footing, by a general direction to the trustees as to the books to be purchased, and the adoption of the rules and regulations prescribed by the Superintendent.

Under the fifth section of the act of 1839, relative to district libraries, (No. 184,) the legal voters in any two or more adjoining districts, may, with the approbation of the Superintendent, *unite* their library moneys, as they shall be received or collected, and purchase a *joint library* for the use of the inhabitants of such districts, to be selected by the *trustees*, or such persons as they shall designate, and to be placed under the charge of a librarian to be appointed by them.

By the seventh section of the same act, (No. 186,) the legal voters in any district are authorized to direct the trustees to apply to the Superintendent to select and forward to the county clerk for the use of the district, a library.

By sub. 9 of § 75, (No. 103,) the power of inhabitants of districts to direct the division of the public (teacher's) money, into not exceeding four portions for each year, and to assign and apply one of such portions to each term taught during the year by a duly qualified teacher, is expressly recognized.

Where by reason of the inability to collect any tax or rate-bill, there shall be a deficiency in the amount raised, the inhabitants of the district in district meeting, are empowered to direct the raising of a sufficient sum to supply such deficiency, by tax, or the same may be collected by rate-bill, as the case may require.—§ 30, *Act of 1841*, (No. 106.)

By § 64, (No. 84,) "If the Town Superintendent of common schools in any town, shall require in writing, the attendance of the Town Superintendents of any other town or towns, at a joint meeting for the purpose of altering a school district formed from their respective towns, and a major part of the Town Superintendents notified

shall refuse or neglect to attend, the Town Superintendents attending, by a majority of votes, may call a special district meeting of such district, for the purpose of deciding on such proposed alteration; and the decision of such meeting shall be as valid as if made by the Town Superintendents of all the towns interested, but shall extend no further than to dissolve the district formed from such towns."

The powers conferred upon the inhabitants of school districts must be strictly pursued, and can in no case be exceeded. No vote or proceeding of a district meeting can be legal, for which authority is not expressly or by necessary implication, to be derived from the statute.

## 2. MODE OF PROCEEDING.

As a general rule, the punctual attendance of the inhabitants of the district should be secured by the organization of the meeting at the appointed hour, after making a fair allowance, say ten or fifteen minutes, for the variation of time-pieces; at the expiration of which time, those in attendance, whatever may be their number, should organize, by the appointment of a moderator. Any number of inhabitants, however small, are, as before observed, competent to the transaction of the business for which the meeting was called; but if there be only a very small number present, it will be advisable to adjourn the meeting. The clerk of the district, if present, will act as clerk of the meeting; and in case of his absence, any other inhabitant of the district may be designated by the meeting to act as clerk *pro tem*. The inhabitants will then proceed to the transaction of the business for which they were convened.

Where officers of the district are to be chosen, the choice should be by ballot, separately for each office; and this mode of proceeding should never be dispensed with where there is reason to believe any difference of opinion exists as to the proper persons to be chosen. Where no such difference of opinion exists, it is still better to regard the choice by ballot as the regular mode, and when dispensed with in any individual case, it should be done by express resolution. All other business of the meeting

should be transacted by written resolutions, regularly put to vote in the customary manner; and where, for any reason, the result cannot be accurately ascertained, the numbers voting for or against any resolution should be determined by a count, or by ayes and noes. For this purpose it would be well for the clerk to have always in readiness a list of the legal voters of the district, with a series of columns attached, to designate the manner in which each person votes on any question that may be submitted. When the site is to be changed in a district that has not been altered, the law specifically requires the vote to be taken by ayes and nays. Such lists may be in the following form :

Names of Voters.	On change of site of sch'l house.		On motion to build school house.		On resolut'n to raise tax of \$150.		On resolut'n to raise tax for apparat.	
	Ayes.	Nays.	Ayes.	Nays.	Ayes.	Nays.	Ayes.	Nays.
John Morehouse,...	—	—	—	—	—	—	—	—
Jacob Curtis,.....	—	—	—	—	—	—	—	—
Thomas Budd,.....	—	—	—	—	—	—	—	—
William Carroll,...	—	—	—	—	—	—	—	—
Henry Beltis,.....	—	—	—	—	—	—	—	—
Frederick Hough, ..	—	—	—	—	—	—	—	—
	4	2	4	2	3	3	4	2

### 3. MODE OF KEEPING MINUTES AND RECORDS OF THE PROCEEDINGS

The person acting as clerk should keep accurate minutes of the proceedings on loose sheets of paper; and before the meeting is finally adjourned these minutes should be read and approved by the meeting, and signed by the moderator and clerk, and afterwards transferred into the record book of the district. The following general form may be used for this purpose :

#### *Form of Minutes to be kept by the District Clerk, of proceedings of District Meetings.*

At a meeting of the legal voters of school district number      in the town of      held pursuant to adjournment, at      on the day of      18      , [or if it be the annual meeting, say "at an annual meeting of, &c. held pursuant to appointment and public notice, at," &c. Or if it be a special meeting, say, "at a special meeting of, &c. called by the trustees of said district, and held pursuant to special notice, at, &c.      on the      day of, &c.,] A

#### POWERS AND DUTIES OF INHABITANTS.

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B. was chosen moderator, and C. D. was present as district clerk, (or if the clerk be not present, say E. F. was appointed clerk pro tem. the district clerk being absent.)

Resolved unanimously, (or by a majority of votes present, as the case may be,) [here enter the proceedings of the district in the form of resolutions, and with as much precision and certainty as possible.]

Where the subject of a change of site in an unaltered district has been under discussion, and a determination had by the district, in the manner prescribed by law, the proceedings should be particularly recorded, in the following form :

At a meeting of the legal voters of district No.     in the town of  
held at the school-house, in pursuance of notice to all the legal voters therein, on the     day of     18     , A. B. was chosen moderator, and C. D. was present as district clerk, (or E. F. was appointed clerk pro tem. the district clerk being absent.) The written consent of the Town Superintendent of common schools of the town having been read, stating that in his opinion the removal of the site of the school house in said district is necessary: And it having been moved and seconded that the present site of the school house in the said district be changed, and that the northeast corner of lot No. 10 in the said town, (or of the farm now occupied by A. B. on the N. E. corner, formed by the intersection of two certain roads, &c. describing them,) be designated as the site of a school house for the said district, and the question taken by ayes and noes, it was carried, two-thirds of all those present at such special meeting voting for such removal, and in favor of such new site: Those who voted in the affirmative were John Morehouse, Thos. Budd. Wm. Carroll and Frederick Hough; those who voted in the negative, were Jacob Curtis and Henry Bettis.

Ayes 4.

Noes 2.

[In stating the ayes and noes, the christian names of the voters should be given.]

[Or, and the question being taken by ayes and noes, it was lost, two-thirds of all those present at the meeting not voting in favor thereof. The votes are then to be stated as before.]

After changing the site of the school-house, in the manner before prescribed, the voters of the district, at the same or any subsequent meeting, may pass a resolution, by a majority of those present, in the ordinary mode, directing the trustees to sell the house, according to No. 88 ante.

#### 4. QUALIFICATIONS OF VOTERS.

Great difficulty has been heretofore experienced in ascertaining the requisite legal qualifications for voters in

school district meetings. The act of 1841 has removed this difficulty by defining them particularly, and has pointed out the means of ascertaining the right of any individual to vote in such meetings, by a challenge, § 7, 8, 9, (Nos. 71, 72, 73.)

The following general qualifications are required in all cases :

1. The voter must be a male.
2. Of full age, that is, twenty-one years old, or more.
3. He must be an actual resident of the district.

In addition to the above, the voter must possess one or other of the following qualifications :

4. He must be entitled by law to hold land in this state, and must own or hire real property in the district, subject to taxation for school purposes ; or,

5. He must be authorized to vote at town meetings of the town in which the district, or part of a district is situated—must have paid a rate bill for teachers' wages in the district within one year preceding, or must have paid a district tax within two years preceding, or must own personal property liable to be taxed for school purposes in the district, exceeding fifty dollars in value, exclusive of what is exempt from execution.

Under the above 4th division are included two classes of persons—citizens owning or hiring real property, subject to taxation, and aliens not naturalized, who have filed the affidavit prescribed by § 16 of title 1, chap. 1, part 2, Rev. Stat. of their intention to become citizens, and of having taken the necessary incipient measures for that purpose, and who own or hire *real property* in the district subject to taxation for school purposes. It does not extend to those who have personal property, but neither own nor hire real property. The provision was intended to meet the case of residents, who, although not entitled to vote at town meetings, may have a strong interest in the proceedings of district school meetings.

In reference to the above 5th division, those "citizens of the several towns in this state, qualified by the Constitution to vote for elective officers," are included, provided they possess the other requisite qualifications. Of course, persons claiming to vote at district meetings under this qualification must have been inhabitants of the state

for one year, of the county for six months immediately preceding, and must then be actual residents of the town. To these must be added some one of the qualifications above specified in division 5. By §§8 and 9, (Nos. 72 and 73,) it is provided that "If any person offering to vote at any school district meeting, shall be challenged as unqualified by any legal voter in such district, the chairman presiding at such meeting shall require the person so offering, to make the following declaration: "I do declare and affirm that I am an actual resident of this school district, and that I am qualified to vote at this meeting." And every person making such declaration shall be permitted to vote on all questions proposed at such meeting; but if any person shall refuse to make such declaration, his vote shall be rejected.

"Every person who shall wilfully make a false declaration of his right to vote at a district meeting, upon being challenged as herein before provided, shall be deemed guilty of a misdemeanor, and punishable by imprisonment in the county jail for a term not exceeding one year, nor less than six months, at the discretion of the court; and any person voting at any school district meeting without being qualified, shall, on conviction, be subject to a fine of ten dollars, to be sued for and recovered by the trustees of the district for its use, and with costs of suit, before any justice of the peace."

#### 5. RECONSIDERATION OF PROCEEDINGS.

The inhabitants of school districts may reconsider and repeal, alter and modify their proceedings at any time before they have been carried into effect, either wholly or in part. But the intention to do so, should be explicitly set forth in the notice of the meeting called for that purpose. When, however, contracts have actually been entered into, liabilities incurred, or expenditures of money had, in the prosecution of any measure directed by the district, a reconsideration will not be sanctioned, as no means exist to indemnify those who may be the losers thereby.

## 6. TAXES SHOULD BE SPECIFICALLY VOTED.

Where a tax is voted by the inhabitants for any purpose, the specific amount of the tax, and the particular purpose for which it is designed, should be fully and clearly stated. And where several objects of expenditure are to be provided for, the amount to be raised for each should be expressed in the resolution, in order that the district and the trustees may know the precise extent of their liability, and the mode of its application. There may be cases, however, where the necessary amount to be raised, cannot be ascertained with any approach to accuracy; and in such cases the district may direct the performance of specific acts by the trustees, or authorize them to incur such expenses as may be necessary to the accomplishment of a particular object to be specified; and the trustees are then authorized by § 14, of the act of 1841, (No. 127,) to raise such amount by tax upon the district in the same manner as if the definite sum to be raised had been voted. This general delegation of authority should, however, be resorted to only in cases of necessity.

## 7. DESIGNATION OF SITE OF SCHOOL-HOUSE.

When the site of a school-house is to be fixed, it should be designated with distinctness and precision. It is very common in many of the districts to vote a site in general terms, as at *or near* a particular spot, *between* two points, or by other equally vague descriptions; and in some instances the precise location has been left to the discretion of the trustees, or of a committee appointed for that purpose. All this is directly contrary to law. The inhabitants in district meeting assembled, are "*to designate* a site for a district school-house," and this designation must be sufficiently explicit, and must be described by metes and bounds, or other known and permanent landmarks, to enable the trustees to locate the site, and to contract for and receive a title to the same; and the best rule will be to make such a description as would be required in a deed of the premises.

## 8. CHANGE OF SITE.

By § 1, of chap. 44, of the Laws of 1831, (No. 85,) it is provided that "whenever a school-house shall have been *built* or *purchased* for a district, the site of such school-house shall not be changed, nor the building thereon be removed, as long as the district *shall remain unaltered*, unless by the consent, in writing, of the Town Superintendent of common schools, of the town or each of the towns within which such district shall be situated, stating that in their opinion such removal is necessary; *nor then*, unless *two-thirds* of all those present, at a *special meeting* of such district *called for that purpose*, and qualified to vote therein, shall vote for such removal, and in favor of such new site."

This provision is designed to secure permanency in the location of the district school-house, while the circumstances under which it was so located remain substantially the same. But when an alteration has taken place in the district, *since such location*, either by the *addition* of new inhabitants, and the consequent annexation of new territory, from the adjoining districts, or by the *setting off* of a portion of the inhabitants and territory to some other district, then, the reason for the enactment failing, a change of site may be voted by a majority of the altered district, in the usual manner. When the new site is again established, either in this manner, or by a two-third vote, as provided in the section above quoted, the same principle again prevails. No further alteration can be made while the district remains substantially in the same condition as when the new site was fixed.

The *alterations* here referred to must be such as are made in the *territorial boundaries* of the district. Changes of residence by the inhabitants out of the district, or the removal of persons into it from other districts, cannot be deemed alterations within the meaning of the law, while the territory remains the same.

Experience has shown that by far the most fertile sources of contention and difficulty in the various school districts, originate from the proceedings of the inhabitants connected with the change of the site of their school-house. Such a measure should, therefore, only be adopted when



the convenience and accommodation of the inhabitants will be essentially promoted thereby; when the altered situation of the district imperatively requires a change; and even then, the full and hearty concurrence not merely of a clear and decided majority of the district, but of the inhabitants generally, should be secured, before any final decision is made. There must always be a portion of the inhabitants, residing at the extremities of the district, who will experience more or less inconvenience, at particular seasons of the year, in consequence of their distance from the school-house: but it is better that these partial inconveniences should be submitted to, than that they should be transferred to others and the whole district plunged into a contention respecting the site. But when, in consequence of the enlargement of the boundaries of the district, a change is indispensable, the inhabitants should come together in a conciliatory and friendly spirit, having no other object in view than the best interests of the district and the convenience of the greatest number: and their action should be deliberate and circumspect—reconciling, as far as possible, the interests of all, and rejecting every proposition calculated to sow the seeds of dissension or disturbance in any portion of the district:—bearing in mind that a mere numerical triumph, leaving a large minority dissatisfied and irritated, however gratifying to the successful party, for a time, is but a poor compensation for a divided and distracted district, and an embittered and hostile neighborhood.

**9. BUILDING, HIRING, PURCHASING AND REPAIRING OF SCHOOL-HOUSES, AND PROVIDING FURNITURE AND APPENDAGES.**

When a tax is voted by the inhabitants of a district for building a school-house, it is important, not only that the specific amount to be raised should be stated, but if any portion of it is designed to be expended in the erection of other appurtenances, such as a wood-house, necessary, or fence, that those purposes should be specifically set forth in the resolution. It would, in all cases, be desirable that a committee of the inhabitants, consisting of or including the trustees who are charged by law with the execution of the work, should be appointed to digest, and under the

advice of the County Superintendent, mature a full plan for the building, appendages, and appurtenances, together with a detailed estimate of the expense, and to submit the same at an adjourned meeting for the sanction and approval of the district. From this proceeding many useful results would follow. The trustees would be placed in possession of all the information necessary to enable them efficiently and systematically to discharge their duties in contracting for and superintending the erection of the house; an opportunity would be afforded of obtaining and comparing the best models of architecture, and the inhabitants would be enabled to discuss at their leisure the several plans submitted, and to consult their convenience, taste and accommodation in the several details.

The school-house, when built, or purchased, should never be permitted to remain for any length of time out of repair. It is the duty of the trustees to keep it in repair, and the district should, whenever called upon, provide for the expense. They should also see that the school-rooms are properly furnished with fuel, prepared for use; that all the necessary articles of furniture are provided; that the seats, desks and other fixtures are in good condition, and that the district library, the apparatus for the school, and all the other property of the district, is properly taken care of, and such articles as are wanted, promptly furnished. In other words, the district should exercise a constant supervision over its officers, and provide the means for an efficient discharge of their duties.

When it is supposed that more than four hundred dollars will be necessary to build, hire, or purchase a school-house, care should be taken to procure the certificate of the Town Superintendent *before* the tax is voted by the district, as such certificate seems by the act and has been held by the department to be indispensable, to authorize the vote. If there be a site and house, they should be sold, and the proceeds applied first to the purchase of the new site and next to the building. And whatever sum is applicable to the erection or purchase of the school-house, must, according to a decision of the department, go in reduction of the amount which the district may vote for a school-house. (*Decisions*, p. 183.) Thus, if the former site and building sell for 200 dollars, and 50 dollars be

applied to the procuring a new site, the remaining 150 dollars being applicable to the new house, the district cannot vote a tax of more than 250 dollars for the building, without the consent of the Town Superintendent.

The following will be a proper form of a resolution for raising a tax for the erection of a school-house :

The certificate of the Town Superintendent of common schools of the town of \_\_\_\_\_ having been obtained, that in his opinion a larger sum than four hundred dollars ought to be raised for building a school-house in the said district, namely, the sum of *six hundred* dollars, [or whatever the whole sum may be.]

*Resolved*, That the said sum of six hundred dollars be raised by tax upon the said district for the purpose of building a school-house therein.

The resolution for the purchase of a site should be distinct, and may be in the following form :

*Resolved*, That the sum of fifty dollars be raised by tax upon the said district for the purchase of the site for a new school-house, heretofore designated by the legal voters thereof.

Either or both the above taxes may be raised, but cannot be expended before a site is purchased and a legal title procured.

A tax having been voted to build a school-house, the tax list made out and a warrant issued, the collection of the tax cannot be suspended by vote of a district meeting.—*Com. School Dec.* 68. But where no proceedings have been had in pursuance of such vote it may be rescinded.—*Id.* 261.

Where a tax is voted in express terms, a direction subsequently given as to the time and manner of its collection is void.—*Id.* 282.

Where the inhabitants of a school district authorize the trustees or any other person to select a site for a school-house, it is not a legal site, until subsequently fixed by a vote of the inhabitants.—*Id.* 353.

Where the title to the site of a district school-house fails, a new site may be fixed by a majority vote, without the certificate of the Town Superintendent.—*Id.* 107, 132, 142, 195.

When the site of the school-house has been fixed, it may be changed by a majority of votes, at any time before the school-house is built or purchased.—*Id.* 182.

In voting a tax to purchase a site, a sufficient sum may be included to cover all necessary expenses in perfecting the title to the premises.

The fact that the site of a school-house is covered by a mortgage, does not affect the validity of the proceedings of a school meeting, in voting to build upon it; although upon timely application, the Superintendent might not permit the house to be constructed until the lien was removed.

Where the title to the site of a school-house consists of a lease of the ground so long as it shall continue to be used for the purposes of a district school, if the inhabitants appropriate the land to any other purpose, it reverts to the grantor.

A contract for the purchase of land intended to be occupied as the site for a school-house, is not strictly a lease, although the vendee may for some purposes be regarded as a tenant. Where such a contract is not executed by the performance of its conditions, it does not amount to a purchase. But where such conditions have been performed, the vendees have an equitable title, and the court of chancery would enforce the performance of the contract on the part of the vendor. A presumption in favor of such performance would, it seems, arise from the circumstance of long possession on the part of the district.

Where a school district has been altered, after the original establishment of its site either by adding to or diminishing from its territory, so that the site is no longer central or convenient, such site may be changed by a vote of a majority of the inhabitants of the district, at any meeting, annual or special: but after such change has been effected, and a new site established, and a new house built or purchased, the site cannot again be changed, until some further alteration occurs in the boundaries of the district, without the consent of the Town Superintendent and two-thirds of the voters of the district, in the mode prescribed by the 70th and two succeeding sections of the school act. (Nos. 85-87.)

The costs and expenses of a bill in equity to perfect the title to the site of a school-house, held under an agreement by the owner to convey, may legally be defrayed by a tax to be voted by the district.—*Per Young, Supt.*

Where the inhabitants of a school district have by a vote to that effect, authorized the trustees to go on and make repairs, or to do any other lawful acts involving an expenditure of money, they will be required to save the trustees harmless, if the latter have acted in good faith. But where trustees undertake to do any act which they are not by law authorized to do, in the absence of any directions on the part of the district, it is at their own peril. The inhabitants may ratify their proceedings by a subsequent vote: but if they do not choose to do so, the trustees are without remedy.—*Com. School Dec. 41, 222.*

A school-house built by subscription, may, if under the control of the trustees, be kept in repair by a tax on the property of the district.—*Id. 47.*

There can be no partnership in the erection of a school-house, which will prevent the district from controlling it entirely for the purposes of the district school.—*Id. 201, 290.*

No more money can legally be expended on a school-house than is necessary for common school purposes. An additional room cannot be provided for a select school.—*Id. 203.*

A tax should not be voted by the inhabitants of a district for repairing the school-house where the district has no title to the site, and the owner has forbidden the repairs to be made.—*Id. 60, 187.*

Nor should a tax to build a school-house, be imposed or expended until the district has acquired such an interest in the site as to be able to control the house.—*Id. 168.*

A tax cannot be raised to build a school-house on a site selected without legal authority.—*Baker v. Freeman, 9 Wendell 36.*

Where a school-house is built by subscription, a tax may be voted for its purchase, if the district has title to the site on which it stands.—*Id. 193.*

The rule of law is, that the right of property in all permanent erections upon lands, resides in the owner of the soil. The latter is therefore the legal owner of a school-house erected without his permission on his land. But if such school-house was originally placed there with his permission, the district has a right to direct its removal.—*Per Young, Supt.*

The inhabitants of a district may legally vote a tax to *enlarge* their school-house, notwithstanding it may already have cost \$400, without a certificate from the Town Superintendent.—*Id.*

Where a school-house is so decayed as in the opinion of a majority of the district to be no longer suitable for the purposes of the school, a tax may be voted in the usual manner for building a new one on the same site.—*Per SPENCER, Supt.*

Inhabitants of school districts cannot, by a vote to that effect, authorize the trustees to provide *fuel* in any other mode than those prescribed by law.—*Com. School, Dec. 264.*

Nor can they impose a tax for the payment of the *costs* or *expenses* incurred in prosecuting or defending a *suit* brought by or against any officer of the district; or for the expenses of conducting an appeal, or an arbitration, although such suit, appeal or arbitration may have been expressly directed by the district.

Nor can they dispose of any portion of the district property, unless in the cases and in the manner specifically pointed out by law.

Although the inhabitants of a district may direct the division of the teachers' money for the current year into portions, applicable to the respective school terms, they cannot so appropriate the money for the succeeding year: nor can they direct such division after its appropriation by the trustees on a specific contract with a teacher.

A tax may be levied in a school district to build a wood-house and necessary.—*Com. School Dec. 21.*

Money cannot be raised by tax in a school district for *contingent* purposes.—*Id. 233.*

A tax to purchase a district library cannot be voted at a meeting of which no *notice* is required to be given: e. g. an adjourned meeting, where the adjournment is for a less period than one month.—*Id. 286.*

A tax cannot be laid to erect a building to be occupied *jointly* as a school-house and a meeting-house.—*Id. 290.*

When the whole amount of a tax raised for any additional purpose is not required for such purpose, the balance may be applied by vote of the district to any other authorized object.—*Id. 315.*

A tax cannot be voted for *arrearages* generally, or to reimburse trustees or other officers of the district for moneys expended by them, unless it appears by the vote that the money is to be applied to one of the objects for which taxes may by law be raised.—*Id.* 316.

A vote of the district is necessary to raise by tax the excess beyond \$400 certified to be necessary for building a school-house.—*Id.* 339.

A tax may be voted for the erection of a *fence* around the school-house lot; but not for a *bell*.—*Id.* 28, 235.

## CHAPTER IV.

### TRUSTEES OF SCHOOL DISTRICTS.

THESE officers are to be chosen by the inhabitants of the district entitled to vote, at their first meeting, and thereafter at any annual or special meeting legally convened, whenever there is a vacancy, by expiration of their term of office or otherwise. They are to hold their offices "until the annual meeting of such district next following the time of their appointment, and until others shall be elected in their places." § 70, No. 98.) In case of the existence of a vacancy, by the death, refusal to serve, removal out of the district, or incapacity of the incumbent, unless such vacancy is supplied by a district meeting within one month thereafter, it is the duty of the Town Superintendent of common schools to appoint some person to supply such vacancy. The expiration of their term of office, also creates a vacancy; and if, for any reason, the annual meeting passes over without the election of officers, ample provision is made, (see Nos. 79, 80 and 81,) for the calling of a special meeting to supply such vacancy; and in the mean time the old officers hold over, until others are elected in their places, as in such case of vacancy the Town Superintendent has no authority to appoint.

By § 72, (No. 100,) every person duly chosen or appointed to any such office, who without sufficient cause shall refuse to serve therein, shall forfeit the sum of five dollars; and every person so chosen or appointed, and not having refused to accept, who shall neglect to perform the duties of his office, shall forfeit the sum of ten dollars."

By § 73, (No. 101,) "any person chosen or appointed to any such office, may resign the same in the manner provided in chapter eleventh, title third, § 33, of this act." The provision referred to in this section is as follows:



"Any three justices of the peace of a town may for sufficient cause shown to them, accept the resignation of any town officer of their town."

By § 16 of the act of May 26, 1841, (No. 75,) "no Town Superintendent of common schools or supervisor of a town, shall be eligible to the office of trustee of a school district; and no person chosen a trustee, can hold the office of district clerk or collector."

By § 12 of the act of 1843, it is provided that "the trustees of each of the several school districts next hereafter to be chosen, shall be divided by lot into three classes, to be numbered one, two and three; the term of office of the first class shall be one year; of the second, two; of the third, three; and one trustee only shall thereafter annually be elected, who shall hold his office for three years, and until a successor shall be duly elected or appointed. In case of a vacancy in the office of either of the trustees, during the period for which he or they shall have been respectively elected, the person or persons chosen or appointed to fill such vacancy shall hold the office only for the unexpired term so becoming vacant."

This extension of the official term of trustees to three years, combined with the annual choice of one of their number, is a very important improvement of the system, securing as it does, uniformity, stability and harmony in the councils of the district, and preventing that ignorance of its previous arrangements and affairs, which has so frequently been found not only to paralyze the exertions of new trustees, but to involve them in pecuniary embarrassment and subject them to personal liability. On the accession of a new trustee, under the present arrangement, he will find two experienced colleagues already in office, conversant with all the affairs of the district, and able and willing to aid and co-operate with him in the discharge of his duties. All the deliberations and actions of the board under this arrangement, will partake of a greater uniformity, and become more systematic. Teachers will be likely to be retained for a longer period; contracts will be likely to be more promptly fulfilled, and taxes and rate bills to be more accurately made out and more speedily collected; and order and harmony will gradually succeed to the chaotic confusion and irregularity which now too

generally characterize the records, the councils and the proceedings of trustees ignorant and careless of their duty, and anxious only to transfer the inextricable embarrassments of their district, unexplained and inexplicable, to their successors.

One important operation of the provision in question, will be as before observed, to prevent the district from changing the time of its annual meeting, thereby avoiding those frequent misunderstandings as to the period when officers of the district are to be chosen, from which so many profitless and vexatious controversies have arisen.

The duties of trustees may be arranged under the following general heads :

1. The receipt and application of public money.
2. The calling of annual and special meetings.
3. The assessment and collection of district taxes.
4. The purchase or lease of sites ; and the building, hiring, or purchasing of school-houses, the repairing and furnishing such houses with necessary fuel and appendages, and their custody and safe-keeping ; and the sale of such sites and houses when no longer required for district purposes.
5. The employment of teachers, and their payment ; and the making out and collection of rate-bills.
6. Their duties in reference to the district library.
7. The making of annual reports.
8. The accounting to their successors and the district, at the expiration of their term of office ; and paying over balances on hand.
9. Suits by and against them.
10. Miscellaneous divisions.

#### 1. THE RECEIPT AND APPLICATION OF PUBLIC MONEY.

By the 15th section of the act of 1843, it is made the duty of the Town Superintendent to pay over the proportion of teachers' money to which each district may be entitled on its annual report for the preceding year, "on the written order of a majority of the trustees of such district to the *teacher* entitled to receive the same."

This order may be in the following form :

A. B. Esq. Town Superintendent of common schools of the town of \_\_\_\_\_ pay C. D. a teacher duly employed by us, and qualified according to law, fifteen dollars, that being the amount which he is entitled to receive, out of the funds in your hands, applicable to the payment of teachers' wages, and apportioned to our district. Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 18\_\_\_\_

E. F. } Trustees  
G. H. } District  
No.

Upon the day of the annual apportionment, or as soon as possible thereafter, the trustees should call upon the Town Superintendent, or send one of their number, or the clerk, with an order signed by them, or a majority of them, for the share of library money due their district. If the Town Superintendent withholds such money, without justifiable cause, it is the duty of the trustees to prosecute for the same.—§ 90, (No. 135.)

The teachers should, if possible, present their orders at the same time, so that all the public money belonging to the district may at once be paid over and duly receipted.

Four-fifths of the aggregate amount of public money apportioned by the state and raised by tax in the several counties and towns, together with the avails of all local or town funds of every description, constitute a fund applicable exclusively to the payment of the wages of duly qualified teachers. To entitle a district to its share of teachers' money, it must appear from its annual report "that a school had been kept therein for at least four months during the year, ending at the date of such report, by a qualified teacher," *after obtaining a certificate of competency* from the proper authority; that all the teachers' money received during the year has been expended in the payment of such teacher; "that no other than a duly qualified teacher had at any time during the year, for more than one month, been employed to teach the school in said district;" and such report must, in all other respects, be in accordance with law, and the requisitions and instructions of the Superintendent, made in pursuance of law. In other words, it must be in the form prescribed by the Superintendent, and must contain all the information required by law and by the department to be given.

There are two classes of cases in which relief may be sought for the refusal of the Town Superintendent to apportion or pay over public money to a district.

1st. Where it is supposed his decision is erroneous upon some question of fact, or some principle of law. In such case the remedy is *by appeal* to the County Superintendent, in the manner prescribed by the regulations concerning appeals. The interest of the district, as well as of other districts, requires that the proceedings should be prompt, as an appeal stays further action by the Town Superintendent.

2d. Where there has been any accidental omission to comply with any provision of law, or any regulation of the Superintendent, in consequence of which the apportionment of public money has not been made. In such cases a general authority is given to the State Superintendent, by § 2 of the act of 1841, (No. 30,) to cause the apportionment to be made, on the equitable circumstances of the case, and a similar authority is given in relation to library money by the last clause of § 6 of the act of 1839, No. 185.)

These provisions are intended only for the cases of accidental and unintentional omissions, and the authority given by them will not be exercised where there is a wilful disobedience of law, or a perverse and intended violation of any regulation.

Applications for relief in this class of cases should be made as soon as the omission is discovered, in order to prevent the inconvenience of correcting the apportionment after it has been acted upon; and any unnecessary delay will in itself form a strong ground of declining to grant the relief desired.

The facts and circumstances on which the application is founded must be verified by affidavit.

#### APPLICATION OF SCHOOL MONEY RAISED BY OR BELONGING TO A TOWN.

In the preceding remarks relative to Town Superintendents of common schools, some directions are given respecting the money which towns are authorized to vote for the support of common schools, in addition to that raised by the supervisors. Some embarrassment has arisen respecting the application of that portion of the money thus raised by a town, which may be received from

the collector by the trustee or trustees of a joint district, a portion of which is within such town, and the residue is within a town or towns that have not directed a similar additional sum to be raised. It must be supposed that the tax, when voted by a town, is intended for the support of schools *therein*, as it would be contrary to all principles of equity, that the inhabitants of one town should be obliged to contribute to the education of children belonging to other towns. The Superintendent has accordingly decided that when any portion of the money, voted by a town, comes to the hands of trustees of joint districts, they must apply ~~it~~ exclusively for the benefit of scholars attending the school, who belong to the town thus voting. After applying the "teachers' money" received from the Town Superintendent, which was apportioned by the state, and that raised by the supervisors, under the general law, to the payment of the teachers' wages, they are then to apply the portion of the town money received by the trustees, to the payment, as far as it will go, of the amount that is to be collected, by a rate-bill, from the parents of the scholars attending school, who belong to the town that raised the additional sum. The rate-bill for teachers' wages, against the other inhabitants of the district, is to be collected precisely in the same manner as if the additional sum had not been raised.

If there are any other common school funds belonging to the town, arising from their poor-moneys, or from their gospel and school lots, any portion of which is received by the trustees of a joint district, they are to apply such portion exclusively for the benefit of the parents of the children attending the school belonging to the town owning such fund. And the trustees should be careful *not* to apply any part of the money in their hands, coming from the tax voted by a town, or from its common school fund, to the purchase of a library, or to any other purpose than the support of common schools.

#### DIVISION OF TEACHERS' MONEY INTO PORTIONS.

By subdivision 9 of § 75, (No. 103,) trustees are authorized "to divide the public moneys received by them, whenever authorized by a vote of their district, into not

exceeding four portions for each year; and to assign and apply one of such portions to each quarter or term, during which a school shall be kept in such district for the payment of the teachers' wages, during such quarter or term." Where no action is had on the subject by the district, trustees have the right to appropriate the public money in such proportions to the different terms as they may deem expedient. It is not essential that the public money should be paid exclusively for services rendered during the year in which it is received: if the whole amount received be applied during the year to the payment of the compensation of qualified teachers, it is immaterial whether such wages were earned wholly during that year, or in part the year previous. It is of frequent occurrence for teachers to commence their term in November or December, and end in the succeeding spring; and there is no impropriety or illegality in paying their wages for the whole term, wholly or in part, from the public money received after its close.

The teachers' money can be applied only to the benefit of such schools as are established by trustees of districts in pursuance of law.—*Com. School Dec. 55.*

Where any portion of the teachers' money is applied to the payment of the wages of a teacher not duly qualified, or is otherwise illegally appropriated, the trustees under whose authority such expenditure is made, are personally liable to the district for the amount.—*Id. 213.*

#### ACCOUNT BOOKS.

Trustees are required by § 11, of the act of May 26, 1841, (No. 122,) to keep an account in a book to be provided for that purpose by them, from time to time, as shall be necessary, of all moneys received and paid out by them, in their official capacity; and a statement of all moveable property belonging to the district. This account and statement is to be entered at large, and signed by them, at or before each annual meeting in their district. They should charge themselves, on one page, with the whole amount of money received by them, either from the Town Superintendent, or on tax lists or rate-bills, specifying particularly the source whence derived, and the time when re-

the collector by the trustee or trustees of a joint district, a portion of which is within such town, and the residue is within a town or towns that have not directed a similar additional sum to be raised. It must be supposed that the tax, when voted by a town, is intended for the support of schools *therein*, as it would be contrary to all principles of equity, that the inhabitants of one town should be obliged to contribute to the education of children belonging to other towns. The Superintendent has accordingly decided that when any portion of the money, voted by a town, comes to the hands of trustees of joint districts, they must apply ~~it~~ exclusively for the benefit of scholars attending the school, who belong to the town thus voting. After applying the "teachers' money" received from the Town Superintendent, which was apportioned by the state, and that raised by the supervisors, under the general law, to the payment of the teachers' wages, they are then to apply the portion of the town money received by the trustees, to the payment, as far as it will go, of the amount that is to be collected, by a rate-bill, from the parents of the scholars attending school, who belong to the town that raised the additional sum. The rate-bill for teachers' wages, against the other inhabitants of the district, is to be collected precisely in the same manner as if the additional sum had not been raised.

If there are any other common school funds belonging to the town, arising from their poor-moneys, or from their gospel and school lots, any portion of which is received by the trustees of a joint district, they are to apply such portion exclusively for the benefit of the parents of the children attending the school belonging to the town owning such fund. And the trustees should be careful *not* to apply any part of the money in their hands, coming from the tax voted by a town, or from its common school fund, to the purchase of a library, or to any other purpose than the support of common schools.

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ceived; and on the opposite page credit themselves with the respective expenditures and payments, specifying particularly to whom, when paid, and for what purpose, and referring to the proper vouchers on file, whenever practicable. On another page they should make an accurate inventory of all the moveable property belonging to the district, such as the library of the district, stating the number of volumes, and their condition, and giving a catalogue of the books, wherever a general reference cannot properly be made, as to the 1st, 2d, 3d, &c. series of the Harper Library, or Nos. 1, 2, 3, &c. of the Harper Library or Family Library, &c. &c. and the furniture, appendages and apparatus of the school-room, specifying each article. The whole to be followed by a certificate in the following form:

We, the subscribers, Trustees of District No.     in the town of *Trenton*, do hereby certify that the preceding, from page     to page     inclusive, contains a true and accurate account of all the moneys received by us, for the use of said district, and of the expenditure thereof: and a correct statement and inventory of all the moveable property belonging to said district.

Dated this     day of     18

A. B. }  
C. D. } *Trustees.*  
E. F. }

#### LIBRARY MONEY.

The library money is to be paid over to, or on the order of, a majority of the trustees, on its appearing from the annual report that "the library money received at the last preceding apportionment was duly expended according to law, (in the purchase of books suitable for a district library, or in the purchase of maps, globes, blackboards, or other scientific apparatus for the use of the schools, in the cases and in the mode prescribed by the late law, and which will be hereafter considered) on or before the first day of October subsequent to such apportionment." The report must uniformly be accompanied with a catalogue of the library, and must state accurately the number or volumes and their condition; and when the money has been expended in the purchase of apparatus, &c. the authority under which such expenditure has been made, and a full and particular inventory of the articles purchased, must be specifically reported.

## II. THE CALLING OF ANNUAL AND SPECIAL MEETINGS.

Trustees have power to call special meetings of the inhabitants of their district liable to pay taxes, whenever they shall deem it necessary and proper. This power should be liberally exercised for the benefit of the district; and special meetings should be called by the trustees, whenever requested for a proper and legitimate purpose, by a respectable number of inhabitants. The trustees should act as a board, whenever such meetings are directed to be called; and they, or a majority of them, when all have been notified, may require the clerk of the district, either verbally or in writing, to give the necessary notices to the inhabitants. The object of the meeting should, in all cases, be specified in the notice. Where there is no clerk of the district, or he is absent or incapable of acting, any one of the trustees, designated by the board, may give the notices.

Where the time for holding the annual meeting has for any reason passed, without the election of officers, and neither the clerk nor acting trustees give the necessary notices for a special meeting, authorized by § 18, (No. 81,) within twenty days thereafter, any inhabitant of the district, qualified to vote, is authorized by § 17 of the act of May 26, 1841, (No. 79,) to notify such meeting in the manner provided by law, in case of the formation of a new district.

## III. ASSESSMENT AND COLLECTION OF DISTRICT TAXES.

This duty is one of the most difficult and perplexing devolved upon trustees; requiring for its proper and legal exercise, a strict conformity to the statutes in form as well as substance. A careful examination and collation of their various provisions in this respect becomes indispensable. Any departure from the specific directions thus given, is almost sure to subject the trustees to serious personal liability, for which no indemnity is provided, as well as to cause embarrassment and confusion in the affairs of the district generally. In order to enable them to execute this portion of their duties with accuracy and ease, the several steps of the process will be distinctly and particularly pointed out; and such directions given, as will,

it is hoped, prevent all liability to error in its future performance.

#### 1. GENERAL PROVISION.

The general duty of trustees under this head, is comprised in the 3d and 4th subdivisions of § 75, (No. 103,) and is as follows: "To make out a tax list of every district tax voted by any such meeting, (special, annual or adjourned,) containing the names of all the taxable inhabitants residing in the district at the time of making out the list, and the amount of tax payable by each inhabitant set opposite to his name; to annex to such tax list a warrant directed to the collector of the district, for the collection of the sums in such list mentioned, with five cents on each dollar thereof for his fees."

#### 2. TAX LIST WHEN TO BE MADE OUT.

By § 82, (No. 120.) "Every district tax shall be assessed, and the tax list thereof be made out by the trustees, *within one month* after the district meeting in which the tax shall have been voted."

The reason of this provision is obvious. The inhabitants and property of school districts are constantly changing; and where a tax is voted for a specific purpose, it should be assessed only upon those for whose benefit it was voted. While the statute should therefore be strictly complied with, whenever it can be, yet if a literal compliance is prevented by accident or unavoidable circumstances, the list may be made out after the expiration of the month or thirty days; as the statute is supposed to be directory, and similar to that in the case of the People *vs.* Allen, 6 Wendell, 496. The regulations of the Superintendent, on appeals, have allowed thirty days within which any person aggrieved, in consequence of the proceedings of any district meeting, may appeal: and, as will hereafter be seen, twenty days' notice is required to be given by the trustees, in case a reduction is claimed, or an original assessment becomes necessary. In the first case, if a copy of the appeal be served prior to the expiration of the month, and *before the*

trustees have made their assessment, the time, during which such appeal is pending, is not to be computed as part of the month within which the tax list is to be made out, as the service operates as a stay of all proceedings in any way relating to or *consequent upon* the act complained of. Still the assessment when made out, must have reference to the property of the district, as it existed at the expiration of the month. In the second case, the trustees must *make out* their tax list within the month, although they may not be able finally to *complete* it. They should however, *within the first ten days* after the meeting at which the tax is voted, make out their assessment; so that if a reduction is claimed, or an original valuation is found to be necessary, they can give the twenty days' notice required by law, and complete their list by the expiration of the month.

*Errors* in tax lists and rate-bills have often been discovered after they were made out. If discovered within a month from the time the tax was voted, and nothing has been collected, the trustees may recall them, correct the error, and redeliver them to the collector. But after the expiration of the month, and after any tax had been, in whole or in part collected, they did not, previously to the act of 1839, (modified by the act of 1843,) possess the power of correction. In consequence they were exposed to prosecutions for slight and accidental errors which might have been easily corrected by parties who did not choose to take the more convenient and summary mode of appealing to the Superintendent. This is now effectually remedied by § 13 of the act referred to, (No. 134,) by which trustees may, of their own authority, correct and amend errors in making out any tax list or rate-bill which may be discovered prior to the expenditure of the amount therein directed to be raised, and may refund to any person any sum improperly collected in consequence of such error." By availing themselves of this provision, trustees may now protect themselves from vexatious suits. They need not wait for an appeal by any party aggrieved, but as soon as they become aware of the existence of any error, they should proceed at once to correct it, and to refund any amount improperly collected in consequence of such error.

### 3. HOW, AND UPON WHOM TO BE ASSESSED, AND FOR WHAT PROPERTY.

Trustees are required by § 19 of the act of May 26, 1841, (No. 107,) to apportion taxes, "on all *taxable inhabitants* of the district, or *corporations* holding property therein." This provision includes, of course, all *actual residents* of the district; and is extended by § 77 (No. 116,) to "every person owning or holding any real property within any school district, who shall improve and occupy the same by his agent or servant, whether he resides in the district or not." They are also to apportion taxes "upon all real estate lying within the boundaries of such district, the owners of which shall be non-residents, and which shall be liable to taxation for town or county purposes, and shall be situated within three miles of the site of the school-house in such district." This includes *uncultivated and unimproved* lands owned by non-residents, and situated in the district; and is an extension of the power given by § 88 [78 of the old act,] which limited the lands of non-residents, subject to taxation, to those which were actually *cleared and cultivated*. The trustees may, in their discretion, omit to assess any tract or parcel of unoccupied non-resident land in their district, where the proportion of the tax payable therefor, would not amount to fifty cents. This provision is inserted to save the trouble of the subsequent proceedings rendered necessary in such cases, where so small a sum only can be finally collected.

The apportionment is also to be made according to the valuations of the taxable property which shall be owned or possessed by them, [the inhabitants of the district, &c as aforesaid,] *at the time of making out such list; within such district, or partly within such district and partly in an adjoining district.*

Taking these provisions together, the following general principles may be deduced:

1. All the *actual inhabitants* of a district are to be taxed for the whole property, real and personal, owned or held by them *within the district*. Executors and administrators having *in their possession* or under their control the property of their testator or intestate, within the district

are taxable therefor, in their representative capacity, as executors, &c.

2. They are also taxable for any real property owned by them, lying *partly within such district and partly in an adjoining district*—that is, for such property as *at the time of making out the tax list* is owned by them and intersected by the boundaries of the district. In this respect the old law is not substantially altered. Nor is it in any sense material when the *title* of the owner to the whole or any part of the land so intersected accrued, whether before or after the organization of the district, so that it belonged to him *at the time of making out the tax list*, and is *then* intersected by the boundaries of such district. In such case, no matter what may be the respective proportions of the land owned in each district, the owner is taxable for the *whole farm or property belonging to him, and so connected, in the district where he resides, only*; and being so liable there, he cannot, of course, be taxed for the same property in any other district.

The principles of law applicable to the taxation for school district purposes, of real estate intersected by the boundary line between two districts, are these: Each inhabitant of a school district is taxable, under § 19, of the act of 1841, (No. 107, laws, &c. relating to common schools,) in the district where he actually resides "according to the valuations of the taxable property which shall be owned or possessed by him, at the time of making out such list, within such district, or partly within such district and partly in an adjoining district." This principle has been repeatedly recognized and asserted; and the only difficulty consists in its practical application to a class of cases supposed to come within the purview of a series of decisions made by Superintendents FLAGG and DIX, confining its operation to the period of the organization of the district. At page 24 of the volume of "Common School Decisions," Mr. FLAGG says, "The principle is, that where a line between two districts runs through a man's farm, he shall be taxed for the whole of his farm, in the district where his house stands, or where he resides." And he observes that on this point the law is clear, and that such has been the construction given it. "The same principle," he adds, "governs in the town

assessments;" the provision of law in this respect being that "where the line between two towns divides any occupied lot or farm, the same shall be taxed in the town where the occupant lives, provided he or she lives on the lot." At page 69, however, of the same volume, he lays down the rule in the following terms: "Where a person purchased a lot in an adjoining district, along side of his farm, it was decided that he was taxable for the lot purchased, in the district where it was situated. If his farm had been intersected by the district line when the commissioners formed it, then he would have been assessed for his whole farm in the district where his house was situated; but the lot purchased is a distinct lot, and the lines of districts cannot be changed by individual purchases." The same doctrine is asserted in a subsequent decision made by Gen. Dix, at page 128 of the volume referred to. These two decisions have been repeatedly over-ruled by subsequent Superintendents, upon the ground, that they establish a criterion by which to determine the liability of property to taxation, in the class of cases under consideration, not recognized by the statute, viz. intersection by the boundary line of the district, at the time of the formation of the district, instead of at the time of making out the tax list. The language of the statute, in this respect, seems to be clear and explicit: "In making out a tax list, the trustees of school districts shall apportion the same on all the taxable inhabitants of the district, or corporations holding property therein, according to the valuations of the taxable property which shall be owned or possessed by them, at the time of making out such list, within such district, or partly within such district and partly in an adjoining district."

The owner and occupant of a farm, therefore, situated partly in two adjoining districts, is taxable in the district where he actually resides, for the whole farm, provided he occupies or improves the whole, as one farm, either by himself, his agents, or servants. So if the owner of a farm situated wholly in one district, purchases a piece of land adjoining his farm, in another, and occupies the whole as one farm, it is taxable only in the district where such owner resides.

If, however, there is a *tenant* on that portion of the

farm situated in a different district from that of the owner's residence, such *tenant* is taxable in the district where he resides, for so much of the property as he rents or leases.

This rule of taxation in no respect interferes, as has frequently been supposed, and as seems to be inferred from the tenor of the above named decisions of Messrs. Flagg and Dix, with the *boundaries* of the respective districts. They remain unaltered and unaffected; so that if that portion of a farm situated in a district other than that of the owner's residence, should again be sold to an inhabitant of the district in which it is situated, it would again become taxable in that district. The rule is one simply of taxation: and no more interferes with the territorial organization of districts, than does the corresponding principle applicable to town assessments, with the boundary lines of towns or counties. It is based upon the injustice and inexpediency of requiring an inhabitant of one district to contribute to the expense of supporting the schools in another, merely because a part of his farm extends beyond the boundary line of his district, and operating, as it does, equally in every district, furnishes a guide to trustees in the assessment of taxes, which relieves them from much embarrassment and labor, otherwise unavoidable, in determining as to the relative value of detached portions of the same farm situated on either side of the boundary line of their districts.

3. All non-resident owners of real estate in the district, who improve and occupy the same by their agents or servants, are by § 77, (No. 116,) taxable therein for the property so owned, improved and occupied, in the same manner as though they actually resided therein. This provision is also to be construed in connexion with those above referred to, and is applicable in its full extent only to cases where the property so occupied is wholly situated in the district. Where it is situated partly in the district where the owner actually resides, it is taxable only in that district. And where it is situated partly in two or more districts, in *neither* of which the owner resides, each district must tax such owner only for the part actually within its boundaries. It is also to be borne in mind that this class of cases is distinct from that in which the land is



occupied by a *tenant*—and also from that in which it is so occupied by a person working it under a contract for a share of the produce of such land. In each of these cases the actual possessor is to be taxed in the same manner as though he were the owner. See § 27, No. 115,) and § 83, (No. 121.)

4. All real estate situate in a district, within three miles of the school-house therein, and owned by non-residents, not included in either of the above class of cases, is also liable to taxation, and forms the subject of the directions contained in § 20 to 26 inclusive, in the act of 1841, (Nos. 108 to 114, both inclusive.)

5. *Land* in the district belonging to *corporations*, whether cultivated or not, is taxable for school district purposes. The provision in the act of 1841, in this respect, produces a material alteration of the law as it formerly stood, and renders turnpike and railroad corporations taxable for so much of the land owned by them as is situated within the respective school districts through which their roads pass. Such corporations and all others, are to be regarded as residents of the districts where their principal place of carrying on business is situated, and non-residents elsewhere. The mode of proceeding where they are non-residents is specifically pointed out by § 20 of the act of 1841, (No. 108,) and the subsequent sections.

By a decree of the chancellor of this state, 4th vol. Paige's Chan. Rep. 384, it has been decided that railroad "companies, whose stock, or the principal part thereof, is vested in the lands necessary for their roads, and in their railways and other fixtures connected therewith, are taxable on that portion of their capital as real estate in the several towns or wards in which such real estate is situated." They are, of course, taxable in school districts for common school purposes, on so much of such real estate as is included within the boundaries of those districts.

In the decree referred to, it was also decided, that such real estate "is to be taxed upon its actual value at the time of the assessment, whether that value is more or less than the original cost thereof."

In ascertaining the value of so much real estate as is included within the boundaries of a school district, the trustees must, from the necessity of the case, be guided

by the best evidence which it is in their power to obtain. They should ascertain from the assessment roll of the town, the aggregate value of so much of the real estate of the company as is within the town. They should then ascertain whether the proportion of that value, in respect to the railway included within their district, is equal to the value of the whole of the real estate of the company included within another district in which the length of the railway is the same. This cannot always be the case, for within the boundaries of one school district the company will have a depôt, while it has none in another district. Within one school district, the railway may have a double, while in another, it may have but a single track. All these circumstances must be ascertained and taken into consideration by the trustees. If the company has in a school district nothing but its railway, and has a depôt within the same town, then the value of the depôt should be deducted from the valuation of the real estate of the company on the last assessment roll of the town, as preliminary to a valuation of that part of the railway which is within the boundaries of such district.—*Common School Dec.* 350.

*Banks* are taxable for common school purposes.—*Id.* 87.

*Associations* formed under the *general banking law* are *corporations*, and as such liable to taxation on their capital.—1 *Hill's Rep.* 616; 3 *id.* 389.

PROCEEDINGS IN CASE OF UNOCCUPIED AND UNIMPROVED NON-RESIDENT LANDS.

Where any real estate within a district liable to taxation is unoccupied, the trustees at the time of making out their tax list are required by § 20 of the act of 1841, (No. 108,) whenever they impose a tax on such property "to make and insert in such tax list, a statement and description of every such lot, piece or parcel of land so owned by non-residents therein, in the same manner as required by law from town assessors in making out the assessment rolls of their towns." If the tax is returned by the collector unpaid, upon receiving from him an account thereof, with the descriptions of the property as directed to be made, and the amount of the tax, together with an affidavit of the fact of non-payment, and of due

diligence used for the collection, the trustees are to credit him with the amount, § 21, (No. 109,) to compare the account so rendered with the original tax list, certify to its accuracy, and transmit it, together with the collector's affidavit and their certificate to the county treasurer, § 22, (No. 110,) who is to pay the amount so returned out of any moneys in the treasury raised for contingent expenses. § 23, (No. 111.) Such county treasurer is to lay the account, affidavit and certificate before the board of supervisors, who are to cause the amount of such unpaid taxes, with seven per cent in addition, to be levied on the lands of the respective non-residents liable to pay the same : which amount when collected, is to be returned to the county treasury, to reimburse the amount so advanced with the expense of collection. § 24, (No. 112.) Any person whose lands are included in any such account, may pay the tax assessed thereon to the county treasurer, at any time before the board of supervisors shall have directed the same to be levied. § 25, (No. 113.) The same proceedings are to be had for the collection of the amount so directed to be raised by the board of supervisors, as are provided by law in relation to taxes on non-resident lands generally ; and upon a return to the comptroller of the arrears uncollected, the amount is to be paid on his warrant to the county treasurer, and the state is to collect the same in the manner prescribed by law in respect to arrears of county taxes upon lands of non-residents. § 26, (No. 114.)

To enable trustees the better to perform the duties thus devolving upon them, that portion of the Revised Statutes referred to in § 20, (No. 108,) and which is applicable, is hereto annexed :

" § 11. The lands of non-residents shall be designated in the same assessment roll, but in a part thereof separate from the other assessments, and in the manner prescribed in the two following sections.

" § 12. If the land to be assessed, be a tract which is subdivided into lots, or be part of a tract which is so subdivided, the assessors shall proceed as follows :

" 1. They shall designate it by its name, if known by one, or if it be not distinguished by a name, or the name

be unknown, they shall state by what other lands it is bounded:

"2. If they can obtain correct information of the subdivisions they shall put down in their assessment rolls, and in a first column, all the unoccupied lots in their town or ward, owned by non-residents, by their numbers alone and without the names of their owners, beginning at the lowest number and proceeding in numerical order to the highest:

"3. In a second column, and opposite to the number of each lot, they shall set down the quantity of land therein, liable to taxation:

"4. In a third column, and opposite to the quantity, they shall set down the valuation of such quantity:

"5. If such quantity be a full lot, it shall be designated by the number alone; if it be a part of a lot, the part must be designated by boundaries, or in some other way, by which it may be known.

"§ 13. If the land so to be assessed be a tract which is not subdivided, or if its subdivisions can not be ascertained by the assessors, they shall proceed as follows:

"1. They shall enter in their roll the name or boundaries thereof, as above directed, and certify in the roll that such tract is not subdivided, or that they can not obtain correct information of the subdivisions, as the case may be:

"2. They shall set down in the proper column, the quantity and valuation as above directed:

"3. If the quantity to be assessed be the whole tract, such description by its name or boundaries will be sufficient; but if a part only is liable to taxation, that part or the part not liable, must be particularly described:

"4. If any part of such tract be settled and occupied by a resident of the town or ward, the assessors shall except such part from their assessment of the whole tract, and shall assess it as other occupied lands are assessed."

The residue of the sections relates to the making of a map which is supposed not to be applicable to trustees of school districts; if a map is already on file the trustees might refer to it in aid of their descriptions.

4. VALUATIONS OF PROPERTY, HOW ASCERTAINED, AND MODE OF PROCEEDING WHEN REDUCTION IS CLAIMED.

The valuations of taxable property are to be ascertained, as far as possible, from the last assessment roll of the town, and no person is entitled to any reduction in the valuation so ascertained, unless he gives notice of his claim to such reduction to the trustees of the district before the tax list shall be made out.—§ 79, (No. 117.)

The assessment roll of the town, when signed and certified according to the provisions of the 26th section of title 2, chap. 13, 1 Revised Statutes, is to be deemed the last assessment roll of the town. By § 27, of the same title, this roll is to be delivered to the supervisor of the town on or before the first day of September in each year, to be by him delivered to the board of supervisors at their next meeting.

According to the opinion of the supreme court in 7 Wendell, 89, the roll is then to be deemed completed, so that the trustees may use it as the basis of their tax list. It is true that it may afterwards be altered by the board of supervisors, by increasing or diminishing the aggregate valuation of real estate of the town to make it correspond with that of other towns. But it is obvious this will not affect the proportion between the inhabitants of the same town, so that an assessment apportioned on either roll would be the same, so far as the real estate is concerned. Should the proportions be varied when real and personal estates are assessed to the same person, yet under the decision referred to, the tax list made out upon the assessment roll as completed by the assessors *before* any variation made by the supervisors would be valid. If any change is made by them, a subsequent tax list should vary also in the same particulars. Generally, the roll completed by the assessors will be a guide, but the trustees cannot be safe without recurring to the roll after its correction by the supervisors, as it has been held by the supreme court in the case above referred to, and in other cases, that if the tax list is made upon an assessment roll that is not the last valid one, the trustees will be personally liable.

The question is often raised, how far, and to what extent, the last assessment roll of the town is to be followed

in the valuations of trustees in levying taxes. It is to be adopted as the sole guide, where a valuation has actually been made by the assessors on property, the condition of which remains substantially the same. But where improvements have been made on real estate which has thereby actually been enhanced in value since the last assessment roll was completed, or where any material change has occurred in the situation of the property, it is obvious that the last assessment roll ceases to be a standard of valuation. So, where an inhabitant acquires or parts with personal property, since the assessment roll was made out. And it is to be recollected that trustees are bound to follow the last assessment roll as far as possible, only with reference to the *valuations* of property. Where it has changed hands, they are to put the assessment to the present owner, adopting the valuation of the town assessors. Where, for instance, one inhabitant sells his farm to another, the trustees, in levying a tax, are to assess the farm to the vendee, at the valuation of the town assessors, where no substantial improvement enhancing its value has occurred in the mean time; reducing, if the circumstances require it, the valuation of his personal property, by the amount paid or secured to be paid as the consideration money of the purchase, and increasing by the same amount the valuation of the personal estate of the vendor. In either of these cases, however, as an original valuation by the trustees in part would become necessary, the proceedings prescribed by § 80 (No. 118,) would be requisite. But where a mere exchange of real estate is effected, no change in the valuations should be made, unless in the cases above specified, of substantial improvements or alterations; the names of the respective persons liable, only, requiring to be changed.

Where a reduction is duly claimed, and where, for any reason, the valuation of taxable property cannot be ascertained from the last assessment roll of the town, the trustees are required by § 80, (No. 118,) to "ascertain the true value of the property to be taxed from the best evidence in their power, giving notice to the persons interested, and proceeding in the same manner as the town assessors are required by law to proceed in the valuations of taxable property." The proceedings to be had in such

cases are specifically and particularly pointed out in the following extract from the Revised Statutes relating to the assessment of taxes. Substituting the word "trustees" for "assessors," wherever it occurs, the directions there given will afford a perfect guide in all proceedings under section 80. It has been decided by the Superintendent, *p.* 319, *Decisions, &c.* that the notice may be given by posting it in three public places. It is to be given in *all cases of variation* from the town assessment roll.

"§ 15. If any person whose real or personal estate is liable to taxation, shall at any time before the assessors shall have completed their assessments, make affidavit that the value of his real estate does not exceed a certain sum, to be specified in such affidavit; or that the value of the personal estate owned by him, after deducting his just debts, and his property, invested in the stock of incorporated companies, liable under this chapter to taxation on their capital, does not exceed a certain sum, to be specified in the affidavit, it shall be the duty of the assessors to value such real or personal estate, or both, as the case may be, at the sums specified in such affidavit, and no more."

"§ 16. If any trustee, guardian, executor or administrator, shall specify, by affidavit, the value of the property possessed by him, or under his control, by virtue of such trust, after deducting the just debts due from him, and the stock held by him in incorporated companies liable to taxation, in that capacity, the assessors shall in like manner value the same at the sum specified in such affidavit."

"§ 17. All real and personal estate liable to taxation, the value of which shall not have been specified by the affidavit of the person taxed, shall be estimated by the assessors at its full value, as they would appraise the same in payment of a just debt, due from a solvent debtor."

After completing the assessment roll, section 19 provides that the assessors "shall make out one fair copy thereof, to be left with one of their number. They shall also forthwith cause notices thereof to be put up at three or more public places in their town or ward."

"§ 20. Such notices shall set forth that the assessors have completed their assessment roll, and that a copy thereof is left with one of their number, to be designated

in such notice, at some place to be specified therein, where the same may be seen and examined by any of the inhabitants of the town or ward during twenty days; and that the assessors will meet on a certain day, at the expiration of such twenty days, and at a place to be specified in such notice, to review their assessments, on the application of any person conceiving himself aggrieved."

"§ 21. The assessor with whom such assessment roll is left shall submit the same, during the twenty days specified in such notice, to the inspection of all persons who shall apply for that purpose."

"§ 22. The assessors shall meet at the time and place specified in the notice, and on the application of any person conceiving himself aggrieved by their assessment, shall review such assessment. And when the person objecting thereto, shall not previously have made affidavit concerning the value of his property, pursuant to the fifteenth and sixteenth sections of this title, the assessors shall, on the affidavit of such person, made as provided in those sections, reduce their assessments to the sum specified in such affidavit."

"§ 23. If the person objecting to the assessment can show by other proof than his own affidavit, to the satisfaction of the assessors, or of a majority of them, that such assessment is erroneous, the assessors shall review and alter the same, without requiring any such affidavit."

"§ 24. Where any person in possession of personal property liable to taxation, shall make affidavit that such property, or any part thereof, specifying what part, is possessed by him as agent for the owner thereof, and shall disclose in such affidavit the name and residence of the owner, the assessors, if it shall appear that such owner is liable to be taxed under this chapter, shall not include such personal estate in the assessment of the property of such possessor."

"§ 25. The affidavit specified in this article, shall be made before the assessors, or one of them, either of whom is hereby authorized to administer an oath for that purpose; and the assessors shall cause all such affidavits to be filed in the office of the town clerk."

It will be observed, that under the provisions of the act of 1841, (No. 107, § 19,) it is no longer necessary that



the *agent* or *servant* of the non-resident owner should *reside on*, or "improve and occupy" land situated within the boundaries of the district, in order to render such non-resident owner liable to taxation; provided such land is taxable for town and county purposes, and is situated within three miles of the site of the school-house of the district in which it lies.

A non-resident owner is taxable for land occupied by an *agent*; but not, if occupied by a *tenant*. If the person living on the premises rents the land as tenant, such tenant is liable to be taxed for the premises so occupied by him.—*Com. School Dec. 27*. The principle of this decision is fully sustained by the supreme court in the case of *Dubois vs. Thorne*, 7 Wendell, 519, in which a lessee of a non-resident owner was held liable for a tax for a part of a lot, and two sub-tenants for the parts occupied by them respectively. The court observed that the mere ownership of the property, without occupation by himself, his agent, or servant, was not sufficient to charge the non-resident owner with the tax. As the law now stands, however, such ownership will be sufficient in the absence of any occupation by a *tenant*.

A *saw-mill*, having an agent or servant in charge of it, is taxable to the non-resident owner.—*Com. School Dec. 82*. So a factory unoccupied, is taxable to the non-resident owner.—*Id.* 100.

Where there is a known error in the town assessment, the trustees may correct it in the district assessment. For instance, if a resident of a district should purchase or sell a lot after the town assessment had been made, the trustees would be required to vary the district assessment accordingly. But where there is no change in the property of the district, and the valuation is a matter of opinion merely, the trustees must be guided by the last assessment roll of the town, even though in their judgment such property, or any portion of it, is worth more or less than the estimate put upon it by the town assessors.—*Com. School Dec. 3*.

Alterations by the trustees from the last assessment roll of the town, by reason of improvements subsequently made, in consequence of which the property assessed has

become enhanced in value, should be made only where such improvements are *complete*.—*Id.* 194.

In assessing taxes in joint districts, the last assessment roll in *each town* must be followed, with respect to the taxable property within it, notwithstanding the standard of valuation adopted by the assessors of the respective towns may be different.—*Id.* 315.

Trustees cannot assess an individual for personal property if he has been taxed for none on the last assessment roll of the town, on the *supposition* that he may have more than his debts amount to. The assessment roll of the town settles the matter, and the trustees cannot vary the amount but from some *knowledge* of an alteration after that roll was made out, or to correct some known and acknowledged error.—*Id.* 342.

Where land owned by the same person is situated in different districts in the same town, but all included under one assessment by the town assessors, if all the land is of the same *description*, and was actually valued at the same rate per acre, without any variation on account of improvements or otherwise; or if it appears on the roll at what rates the separate parts were valued, then the valuation of the portion situated in any particular district may be ascertained by the trustees from such last assessment roll. But if the valuation by the town assessor was *general*, and the land was of different degrees of quality or value; or if a dwelling house, or other improvements are situated in one district, and none in another, a new and original assessment must, in such case, be made by the trustees, giving the notices, &c. and proceeding in the mode required by law.—*Per* SPENCER, *Supt.* Jan. 1841.

Unless a reduction is claimed, or some departure from the last assessment roll of the town becomes necessary, trustees are not required to give notice of the assessment of a tax.—*Com. School* Dec. 40.

Land purchased after a tax is voted, but before the tax list is made out, must be assessed to the purchaser if he resides in the district.—*Id.* 8.

Persons leasing specific portions of a lot are to be taxed for so much as they lease.—*Id.* 16.

Persons about to remove from a district must be included in a tax list, if they are actually inhabitants when the list is made out.—*Id.* 66.

A store and lot must be taxed in the district in which they are situated; but goods in a store are to be taxed in the district in which the owner resides. Real estate is taxable where it lies, and personal property where the owner resides.—*Id.* 71, 86.

Bridge companies are taxable in the district where the tolls are collected.—*Id.* 74.

If a person owns two farms, and the district line separates them, and they are separately occupied, he is liable to be taxed for each farm in the district where it lies. But if they are occupied as one farm the whole is taxable, only in the district where the owner resides.—*Id.* 81. *And see ante.*

The general rule is, that where a new district is formed, and the line intersects a farm, the whole farm is to be taxed in the district where the owner resides. Separate tenancies, are however, exceptions to this rule. When a part of a farm is leased, it ceases to be an entire possession, and the part so leased must, with regard to taxation, be considered as following the residence of the lessee or tenant.—*Id.* 103.

The vendor of a farm remaining in possession is liable for taxes assessed on it.—*Id.* 83.

Trustees are bound to know the condition of the taxable property of their district, so that in assessing taxes no person shall be improperly taxed.—*Id.* 108.

The toll-house and gate of a turnpike or bridge company, including a lot no more than sufficient for the accommodation of the toll-gatherer, are necessary appendages to the franchise, and taxable as personal estate in the district where the principal office of the company for the transaction of its business, is situated.—*Id.* 135.

Two or more taxes voted at the same time may be included in the same tax list.—*Id.* 158.

If a taxable inhabitant sells his farm and remains in the district, he is liable to be taxed on the amount of the purchase money paid, or secured to be paid, as personal property, and the purchaser is taxable for the farm accord-

ing to its assessed value on the last assessment roll of the town.—*Id.* 285, 342.

Trustees must include in a tax list every taxable inhabitant residing in the district at the time the list is made out.—*Id.* 109, 342.

If before a tax is assessed, the trustees ascertain that the whole amount voted will not be required, they may make out a tax list for a smaller sum.—*Id.* 342.

If an inhabitant removes from a district before the end of one month after a tax is voted, and *before the tax list is delivered to the collector*, he cannot be included in it: the tax list, while remaining in the hands of the trustees, not being complete; except in cases where notice is required to be given in pursuance of law.—*Id.* 357, *as subsequently modified by Young, Superintendent.*

A *tenant* is taxable, whether a householder or not, for land occupied and improved by him. He may *board out*, and yet if he hire the lot and improve it, as a tenant, he is taxable for it.—*Id.* 155.

The temporary occupancy of a house, on a farm, by a person hired to work it by the month, does not, however, constitute such a *tenancy* as to subject such occupant to taxation for the farm. He can be regarded only as *agent* for the owner.—*Per DIX, Superintendent, 1837.*

Where trustees omit to include in their tax list property legally subject to taxation, no person can take advantage of such omission, on appeal or otherwise, unless he has specifically pointed out the error to the trustees, and required its correction.—*Per SPENCER, Superintendent, 1840.*

Where a person assessed for a greater number of acres than his farm contains, omits to claim a reduction when the tax is assessed by the trustees, he will not be relieved subsequently on appeal.—*Com. School Dec. 341.*

Trustees, guardians, executors and administrators are taxable in their representative character, where they reside, for all the personal estate or property in their possession, or under their control, belonging to the *cestuique trust*, ward, testator or intestate whom they represent. By § 10, 1 R. S. 391, a deduction is to be made by the assessors for debts due from the individual assessed, in his representative character, as specified in § 27, 2 R. S. 87. It is in the power of such trustees, guardians, executors or

administrators, to claim a reduction under the provisions of § 79 of the school act above referred to; and under § 16, 1 R. S. 392, they may reduce the amount of such assessment by a specification of the value of the property. The question whether the real owners of the property are to be directly or indirectly benefitted by the expenditure of the tax assessed upon it, does not appear to have been one of the considerations in the provisions above referred to: for it is manifest that the personal property in the hands of a trustee, guardian, &c. in Buffalo is liable to be taxed there, although the real parties in interest may live in Albany. After the administration of an estate in the hands of an executor or administrator, upon the rendition and settlement of a final account of his proceedings, the personal property is of course no longer liable to taxation where he resides; but so long as it is in his possession, or under his control, it is so liable.—*Id* 157, 230.

#### PERSONS AND PROPERTY EXEMPT FROM TAXATION.

By § 81, (No. 119,) the trustees, in assessing a tax for *building* a school-house, are to exempt any person set off to their district *without his consent*, from any other district, within four years preceding the assessment of such tax, who shall have actually *paid* within that period, in the district from which he was taken, under a lawful assessment therein, a district tax for the same purpose. The burden of proof in this case, undoubtedly rests with the person claiming the exemption, as the trustees can have no official knowledge of the fact.

This exemption does not extend to taxes for *repairs*, or for any other purposes than building a school-house.

By § 4, of chap. 13, 1 R. S. 379, (2d edition,) the following property is declared to be exempt from taxation:

1. All property, real or personal, exempted from taxation by the Constitution of this state or of the United States:
2. All lands belonging to this state or to the United States:
3. Every building erected for the use of a college, incorporated academy or other [incorporated] seminary of learning; every building for public worship; every school

house, court-house and jail; and the several lots whereon such buildings are situated, and the furniture belonging to each of them:

4. Every poor-house, alms-house, house of industry, and every house belonging to a company incorporated for the reformation of offenders, and the real and personal property belonging to or connected with the same:

5. The real and personal property of every public library:

6. All stocks owned by the state or by literary or charitable institutions:

7. The personal estate of every incorporated company not made liable to taxation on its capital by law:

8. The personal property of every minister of the gospel or priest of any denomination; and the real estate of such minister or priest when occupied by him; provided such real and personal estate do not exceed the value of \$1,500. If such real and personal estate *or either* of them exceed the value of \$1,500, that sum is to be deducted from the valuation of the property of such minister, and the residue is liable to taxation:

9. All property exempted by law from execution.

The land owned by a minister of the gospel, if *rented*, can be taxed to the tenant. It is exempt from taxation to a certain extent only *when occupied by such minister*. If, however, the occupant is the *agent* merely of the minister, so as to render it necessary to make out the assessment against the latter, as owner, the property is then exempt.

Land *occupied* by a minister of the gospel, as *tenant*, has been held exempt to the amount of \$1,500, under the provision above quoted.—*Com. School Dec. 61.*

#### 6. WHEN TAXES MAY BE IMPOSED BY TRUSTEES WITHOUT BEING SPECIFICALLY VOTED.

By § 14 of the act of 1941, (No. 127,) "When the trustees of any school district are required or authorized by law, or by vote of their district, to incur any expense for such district, and when any expenses incurred by them, are made by express provision of law a charge upon such district, they may raise the amount thereof by tax in the same manner as if the definite sum to be raised had been

voted by a district meeting, and the same shall be collected and paid over in the same manner."

When Town Superintendents of common schools have ascertained the proportion belonging to a new district, of the value of the property of the one from which it was wholly or in part formed, the trustees of such last mentioned district are required by § 69, (No. 94,) to levy, raise and collect such proportion, with the fees for collection, upon the taxable inhabitants of their district, "in the same manner as if the same had been authorized by a vote of their district for the building of a school-house;" and when collected, to pay over the amount to the trustees of the new district, "to be applied by them towards procuring a school-house for their district; and the moneys so paid to the new district shall be allowed to the credit of the inhabitants who were taken from the former district, in reduction of any tax that may be imposed for erecting a school-house." That portion of the moneys so paid arising from the valuation of the district library, can only be applied to the purchase of books, or in reduction of any tax that may be imposed for their purchase.

The amount so raised is to be allowed *only* "to the credit of *the inhabitants who were taken from the former district.*" It cannot be applied to the benefit of their *grantees, assignees, or successors*, in case they subsequently remove out of the district before an opportunity is afforded for its application in their own behalf; and in such cases it must of necessity be applied to the general purposes for which taxes are raised.

It is also to be borne in mind that such proportion is only to be ascertained and raised in the case of the formation of a *new district*; and that the provision in question is not applicable to the case of the annexation of inhabitants, with or without their consent, from one *existing* district to another.

By § 4 of the act of 1841, (No. 96,) "in cases where by the dissolving a district, its school-house, or other property shall be annexed to or included in another district, the officer by whose orders such dissolution was effected, shall appraise such property in the manner provided by law in cases of the creation of new districts; and the proportions assigned to the inhabitants of such dissolved dis-

trict who are not annexed to the district which includes the school-house or other property, shall be raised by the trustees of such last mentioned district, and paid over to the trustees of the district to which such inhabitants are annexed, in the same manner as in case of the creation of a new district, and to be applied to the same purpose."

By § 11 of the act of 1841, (No. 122,) the trustees are required to purchase two blank books, for the purposes specified in that section, and by sub. 1. of § 74 (No. 102,) a book is to be provided for recording the proceedings of the district. The trustees will be justified in imposing a tax, or adding to the amount of any voted by the district, for the expense of these books.

They are also to impose a tax for the deficiency of teachers' wages, occasioned by the exemption of indigent pupils, as will be explained in the remarks on that subject.

**7. *Form of a District Tax List to raise any tax voted or charged on a District, and of a Warrant for its collection.***

List of Taxes apportioned by the Trustees of District No. in the town of *Trenton*, on the taxable inhabitants of the said district, and corporations holding property therein, and upon real estate lying within the boundaries of such district, the owners of which are non-residents thereof, for the purpose of raising the sum of laid and charged on the said district, according to law.

Names of inhabitants and corporations.	Amount of taxes.
James Thomas,.....	\$5 00
The President, Directors and Company of the Bank of Utica,.....	60 00
James Thomas, executor of the estate of John Thomas, deceased,.....	50 00

***Statement and description of unoccupied and unimproved Lands of non-residents of said district, upon which a tax has been imposed as above stated.***

No. and description of lots and parts of lots.	Quant. of land therein liable to taxation.	Valuation of such quantity.	Amount of tax.
No 17,.....	10 acres.	\$25 00	\$0 75
Southwest quarter of lot No. 23,	2½ "	6 00	0 20
Tract not subdivided,.....	5 "	10 00	0 32½
Or,			
Tract, the subdivisions of which cannot be ascertained, bounded north by lot No. 17, south by north line of A. B, east by lot 15, and west by town line.	"	"	"



To the Collector of School District No.      in the town of *Trenton*, in the county of *Oneida*.

You are hereby commanded to collect from each of the taxable inhabitants and corporations named in the foregoing list, and of the owners of the real estate described therein, the several ~~sums~~ <sup>sums</sup> mentioned in the last column of the said list, opposite to the persons and corporations so named, and to the several tracts of land so described, together with five cents on each dollar thereof for your fees; and in case any person, upon whom such tax is imposed, shall neglect or refuse to pay the same, you are to levy the same by distress and sale of the goods and chattels of the person or corporation so taxed, in the same manner as on warrants issued by the board of supervisors to the collectors of towns; and you are to make a return of this warrant within thirty days after the delivering thereof to you; and within that time to pay over all moneys collected by virtue hereof, to the trustees of the said district, some or one of them; and if any tax on the real estate of a non-resident mentioned in the said list shall be unpaid at the time when you are required to return this warrant, you are to deliver to the trustees of the said district an account thereof, according to law.

Given under our hands this      day of      in the year one thousand eight hundred and forty

A. B. }  
C. D. } Trustees.  
E. F. }

By § 29 of the act of 1841, (No. 105,) it is not necessary for the trustees to affix their seals to any warrant.

#### 8. WARRANTS FOR THE COLLECTION OF TAX LISTS OR RATE-BILLS.

By various provisions of the school act (No. 128 to 131,) it is provided that the warrant annexed to any tax list for the collection of a district tax or any rate bill for the payment of teachers' wages, shall command the collector, in case any person named in such list shall not pay the sum therein set opposite to his name on demand, to levy the same of his goods and chattels in the same manner as on warrants issued by the board of supervisors to the collectors of towns.

The time specified in any warrant, for its collection and return begins to run from the *delivery* of such warrant to the collector, and not from its date.—*Com. School Dec.* 286.

Where a warrant is signed by two trustees only, the presence or concurrence of the third will be presumed.—*Id.* 258.

Trustees in office only, can sign warrants.—*Id.* 275.

By § 89, "If the sum or sums of money, payable by

any person named in any tax list or rate bill, shall not be paid by him, or collected by such warrant within the time therein limited, it may be lawful for the trustees to renew such warrant, in respect to such delinquent person; or in case such person shall not reside within their district, at the time of making out a tax list or rate bill, or shall not reside therein at the expiration of such warrant, and no goods or chattels can be found therein whereon to levy the same; the trustees may sue for and recover the same, in their name of office.

Any second or subsequent renewal of such warrant must be with the written approbation of the Town Superintendent endorsed thereon.

Trustees may legally renew the warrants of their predecessors in office.—*Com. School Dec. 27.*

Where a district meeting votes to renew a warrant and collect a tax, the trustees may regard it as an original vote, and issue a new warrant for its collection.—*Id.*

#### IV. DUTIES OF TRUSTEES IN RELATION TO THE PURCHASE, CUSTODY AND SALE OF SCHOOL-HOUSES AND SITES, THE REPAIR OF SUCH HOUSES, AND FURNISHING THEM WITH NECESSARY FUEL AND APPENDAGES.

##### 1. PURCHASE, REPAIR AND CUSTODY OF SCHOOL-HOUSE.

By sub. 5, of § 75 of the school act, (No. 103,) it is made the duty of trustees, and they are empowered "to purchase or lease a site for the district school-house, as designated by a meeting of the district; and to build, hire, or purchase, keep in repair and furnish such school-house with necessary fuel and appendages, *out of the funds collected and paid to them for such purpose.*"

If trustees undertake to remove a school-house, buy a lot for a site, or do any other act which they are not by law authorized to do without a vote of the inhabitants of the district, it is at their own peril. The inhabitants may ratify their proceedings by a subsequent vote; but if they do not choose to do so, the trustees are without remedy.—*Com. School Dec. 41, 222.*

But where the inhabitants of a school district have, by a vote to that effect authorized their trustees to make repairs or do any other lawful act, involving an expenditure of money, they will be required to save them harm-

less, provided they have acted in good faith. The inhabitants may always limit a contemplated expenditure by voting a specific sum for the purpose. But if they neglect to do so, and give a general direction to the trustees to go on and make repairs, &c., without restricting the amount to be expended, the Superintendent will, on the refusal of the inhabitants after the work is done to indemnify them, for their reasonable and *bona fide* expenditures, order a tax to be levied for the amount.—*Id.* 222.

By sub. 6 of § 75, above referred to, it is provided that the trustees shall "have the custody and safe-keeping of the district school-house."

Questions have frequently arisen, as to the extent of the power conferred by this last subdivision; and to what uses the school-house should be confined by the trustees.

The general principle in relation to questions of this nature arising in the several school districts, is this: that it is the duty of the trustees to exercise such a general supervision over the care and management of the district school-house, as that the instruction of pupils in the school shall not be embarrassed by any use of the house other than for school purposes; and that the property of the district, and the furniture, books, and papers belonging to the school, or the pupils, shall not be injured or destroyed. Any use of the house in subordination to these restrictions, and not inconsistent with the main purposes for which it was designed, must be left to the determination and pleasure of those to whom it belongs, whose wishes and directions, in this respect, the trustees are bound to carry out. The school-house is the property of the district, and subject to its control, within the limitations of the law. The purpose for which it was erected must be pursued, and nothing can be suffered to interfere with that. But when that purpose is accomplished, there is neither reason nor law for prohibiting its application to any object of social or moral improvement which the majority of the inhabitants may sanction. Upon this principle, and subject to the restrictions and limitations referred to, it may be used, out of school hours, and when not wanted for any district purposes, for religious meetings, Sunday schools, lectures, debating societies, or any other moral, literary, or useful purpose, with the approbation

of a majority of the district and the consent of the trustees, or any two of them.

Trustees cannot, however, allow *any part* of the district school-house to be occupied for any other purpose than that of the district school, while such school is actually in progress.—*Com. School Dec. 51.*

Select or private schools will not be permitted to be kept in the district school-house.—*Id. 119.*

Except in extraordinary cases, schools must be kept in the district school-house: and by § 35 of the act of 1841, (No. 141,) "Whenever it shall be necessary, for the accommodation of the children in any district, the trustees may hire temporarily any room or rooms, for the keeping of schools therein; and the expense thereof shall be a charge on such district."

If there is no school-house in the district a school cannot be opened by the trustees until the inhabitants have designated the place.—*Com. School Dec. 190.*

## 2. SALE OF SCHOOL HOUSE AND SITE.

A very important branch of the duties incumbent upon trustees, is that which relates to the disposition of the school-house and site, when no longer required for district purposes. By § 4, of chap. 44, of the Laws of 1831, (No. 88,) the inhabitants of the district are authorized, whenever the site of the school-house has been legally changed, to direct the sale of the former site, together with the buildings and appurtenances, or any part thereof at such price and upon such terms as they shall deem most advantageous to the district. In this case the trustees act merely as the ministerial officers of the district, and are bound to carry out the directions of the inhabitants. They are to execute the necessary conveyances to the purchaser; and when a credit is directed to be given for any portion of the consideration money, they are to take, in their corporate name, such security, by bond and mortgage or otherwise, as they may think proper; to hold the same as a corporation, and account to their successors; and they are also authorized, in their name of office to sue for and recover the moneys due and unpaid upon any security so taken by them, or their predecessors, with inter-

est and costs. They are by § 5, of the same act, (No. 89,) to apply the moneys arising from such sale to the expenses incurred in procuring a new site, and in removing or erecting a school-house, so far as such application shall be necessary.

By § 4 of chap. 308 of Laws of 1835, (No. 90,) trustees are vested with the necessary power to sell and convey the old site, whenever a new one has been legally selected, upon such terms as *they* shall deem advantageous to the district. This provision is somewhat repugnant to that in No. 88, and would seem to give the power of disposing of the school-house to the trustees absolutely, without a vote of the district. But on the principle of construing statutes on the same subject so as to give effect to each, as far as possible, the better course would be for the trustees to execute this power only when the district has not expressed its will on the subject.

By § 3 of the act of 1841, (No. 95,) "Whenever two or more districts or parts of districts shall be united, and there shall be more than one school-house in such new or altered district, the trustees of such district may sell the site and buildings thereon, of either or both the school-houses situated in such new district."

### 3. MODES OF PROVIDING FUEL.

There are three modes of providing fuel for the use of school districts. 1st. By a specific tax for that purpose, to be voted by the inhabitants: 2d. Where this mode is not adopted, the trustees are directed by § 85, (No. 124,) to determine the proportion which every person sending children to school shall be liable to provide, according to the number sent by each, exempting indigent persons: and 3d. "If any person liable to provide such fuel, shall omit to provide the same, on notice from any one of such trustees, it shall be the duty of the trustees to furnish such fuel, and to charge the person so in default, the value of, or amount paid for, the fuel furnished," § 86, (No. 125,) and to add such amount to his rate-bill, or prosecute for and collect the same. § 87, (No. 126.)

Trustees should see that the respective proportions of fuel are promptly furnished by the inhabitants, or the amount due, on neglect, promptly collected.

The statute uses the term "*fuel*," which imports wood or other material *in a state fit for use*. The trustees should not receive large or green logs, which require splitting or cutting; but should require the wood to be adapted to the fireplace or stove. Unless this is done by those who are to furnish the fuel, there are no means of having it prepared. It cannot be said to be the duty of the teacher, or of the pupils, to cut or split, or in any way to prepare the materials sent for use. Great inconvenience has been frequently experienced from the omission to supply proper fuel, and the schools have often been dismissed in consequence.

Fuel provided for school districts, whether paid for by a tax or furnished by the inhabitants who send children to school, cannot be used for any other than school purposes, even though directed by a vote of the inhabitants of the district: and trustees are legally responsible for any improper or unauthorized use of the fuel provided for the school.—*Com. School Dec.* 156, 289.

Non-residents of the district are *taxable* for fuel, in the same manner and to the same extent as for any other district purpose.—*Id.* 207.

#### V THE EMPLOYMENT OF TEACHERS AND THEIR PAYMENT, AND THE MAKING OUT AND COLLECTING OF RATE BILLS.

##### 1. CONTRACTS WITH TEACHERS.

By sub. 7 of § 75, (No. 103,) trustees are "to contract with and employ all teachers in the district."

The most fruitful source of difficulty in school districts, has been the looseness and irregularity with which these contracts have been made. In some districts the trustees are in the habit of agreeing to pay the teacher the whole amount of public money that should be received, be it more or less. This is unjust to the teacher or the district, and has almost always led to contention. The agreement should be to pay him a specific sum by the month or by the quarter, adequate to the value of his services. If the public money is not sufficient, the deficiency should be supplied by a rate-bill. It is not to be believed that any intelligent citizens will consider that sordidness to be economy, which prefers that their children should be brought

up in ignorance, or instructed in error, rather than contribute the mere trifle which will secure them an education, at least sound and accurate, as far as it goes. When the rewards which other professions and avocations hold out to talent, knowledge and industry, are so liberal, how can it be expected that persons competent to the great business of instruction, should devote themselves to it for a compensation inadequate to their support?

If the public money should be more than sufficient to remunerate the teacher, the trustees should consider whether they may not establish another school, or a distinct department. A large amount of public money, indicates a large number of children over 5 and under 16, and of course there will be the materials for a large school, or for more than one, especially if they are of a character to command respect and inspire confidence.

Should there be a surplus of public money, after paying a fair and just equivalent to the teachers who can be usefully employed, the district will always be relieved from the consequence of not expending the whole, upon application to the Superintendent.

It is the duty of trustees of a school district to have a school kept in the district school-house, wherever there are a number of children to attend sufficient to defray the expenses of a teacher: and if a portion of the public money has been assigned to each portion of the year, then it is their duty to have a school kept whenever the expense can be defrayed by the public money, and the rate-bills against those sending children to the school. This principle is applicable as well to summer as to winter schools. Trustees are bound to provide a school, whenever requested by any portion of the inhabitants of the district, able and willing, with the help of the public money or otherwise, to defray its expense: and in this respect they are not to be governed or controlled by any vote of the district. The very object and business of their office is to provide schools; and no district meeting can abridge their powers, or relieve them from the performance of their duty in this respect.—*Per SPENCER Supt. on appeal.*

A practice prevails to some extent, of contracting with teachers that they shall collect the rate-bill, or the sum

that may be deficient after applying the public money. This is wholly illegal, and is sure to involve the trustees and teachers in difficulty. The deficiency must be collected by the trustees, by warrant annexed to a rate-bill, and delivered to the collector. The Superintendent has uniformly refused to interfere in all cases where any arrangement for the collection of teachers' wages, other than that prescribed by law, has been made. The expression in sub. 8 of § 75, R. S. (No. 103,) "excepting such sums as may have been collected by the teachers," implies that they may collect their wages. But this can apply only to the case of voluntary payment, and does not justify trustees in abandoning the means of collection provided by law.

Another practice requires notice. It is that of trustees engaging with a teacher that he shall board with the parents of the children alternately. There is no authority for such a contract, and it cannot be enforced on the inhabitants. This compulsory boarding gives occasion to constant altercation and complaint, which often terminates in breaking up the school. The best arrangement is to give the teacher a specific sum and let him board himself. But there are some districts so destitute that it may afford the inhabitants considerable relief to be permitted to board the teacher. In such cases the object can be obtained in another way. Let the trustees contract with the teacher at a specific sum per month, or by the quarter, and they may then agree with him, that if he shall be afforded satisfactory board at the house of any of the inhabitants, he will allow whatever sum may be agreed on per week for such board, to be applied to his wages, and will give an order on the trustees for the amount, to the person with whom he boards: and the trustees may then accept such order from the inhabitants, as payment to that extent upon his tuition bill, and deduct it from the amount to be paid the teacher, after having paid him the whole of the public money.

It is strongly recommended that all contracts with teachers be made in writing, and a duplicate kept by each party. In no other way can justice be done to the parties in case of any dispute.

The power of the trustees to contract with and employ



teachers, cannot be controlled by the inhabitants; although it should never be exercised, unless under very peculiar circumstances, in opposition to the known wishes of a decided majority of the district.

Contracts by trustees of school districts for teachers' wages are binding on them personally, individually, and collectively, while they remain in office; and on their successors after the expiration of their term: and trustees who are not in office, as such, are no longer personally answerable on such contracts. See 7 *Wendell*, 181, 4 *Hill*; *Com. School Dec.* 191, 282.

A contract made by all the trustees of a district, but signed by two only, is binding upon all; and the presence or concurrence of the third will be presumed from the signature of the remainder. So two trustees may enter into a contract, in the absence of the third, if he was duly notified of a meeting for that purpose, or was consulted, and refused to act.—*McCoy vs. Comtree*, 9 *Wend.* 17. In short, so far as the rights of third persons are concerned, a contract made by a majority of the trustees will be regarded as *prima facie* valid and obligatory. The party with whom the contract has been entered into is not bound to enquire whether the requisite preliminary steps to authorize the majority to act without the presence or concurrence of the third trustee have been taken or not.

If a teacher's certificate is annulled, the trustees are at liberty to dismiss him, and to rescind their contract with him. They engage him as a qualified teacher, and the moment he ceases to be so, there is a failure of the consideration for the contract. If however, the trustees continue him to the school after notice that his certificate has been annulled, it will be regarded as such a continuance of the contract that they will not be allowed at a subsequent period to dispute it.—*Com. School Dec.* 212.

## 2. MODE OF PAYING TEACHERS.

This is specifically provided for by § 75, (No. 103,) above referred to. By subdivision 8, the trustees are "to pay the wages of such teachers, when qualified, out of the moneys which shall" be in the hands of the Town Superintendent of common schools, subject to their order,

"so far as such moneys shall be sufficient for that purpose ; and to collect the residue of such wages, excepting such sums as may have been collected by the teachers, from all persons liable therefor."

By subdivisions 9, 10, 11, 12, 13 and 14, they are :

"To divide the public [teachers'] moneys" due the district "whenever authorized by a vote of such district, into not exceeding four portions for each year ; to assign and apply one of such portions to each quarter or term during which a school shall be kept in such district, for the payment of the teachers' wages during such quarter or term ; and to collect the residue of such wages, not paid by the proportion of public money allotted for that purpose, from the persons liable therefor, as above provided :

"To exempt from the payment of the wages of teachers, such indigent persons within the districts as they shall think proper :

"To certify such exemptions, and deliver the certificate thereof to the clerk of the district, to be kept on file in his office :

"To ascertain by examination of the school lists kept by such teachers, the number of days for which each person not so exempted, shall be liable to pay for instruction, and the amount payable by each person :

"To make out a rate-bill containing the name of each person so liable, and the amount for which he is liable, adding thereto five cents on each dollar of the sum due from him, for collectors' fees ; and to annex thereto a warrant for the collection thereof : and

"To deliver such rate bill, with the warrant annexed, to the collector of the district, who shall execute the same in like manner with other warrants directed to him by them."

By § 13, of the act of 1841, (No. 104,) "the trustees of any school district are authorized to exempt any indigent person from the payment of the teachers' wages, either in part or wholly, and shall certify the whole amount of such exemption in any one quarter or term, and the same shall be a charge upon such district." And

By § 30, of the same act, (No. 106,) "where, by reason of the inability to collect any tax or rate-bill, there shall be a deficiency in the amount raised, the inhabitants of

the district, in district meeting, shall direct the raising of a sufficient sum to supply such deficiency, by tax, or the same shall be collected by rate-bill, as the case may require."

In accordance with these several provisions, trustees of districts, in making out their rate-bills, will proceed as follows :

1. They will first ascertain the amount due to the teacher, under his contract, for the quarter's services.

2. They will then apply so much of the public money as is applicable to the term, in diminution of such amount.

3. They will assess the balance upon each inhabitant who has sent to the school during the term, (including indigent persons) according to the number of children and of days sent by each, as appears by the verified list kept by the teacher, under the 11th section of the aforesaid act. (No. 122.)

4. They will then proceed to exempt, either wholly or in part, such indigent inhabitants as they may think proper, from the payment of their proportions of such assessment, certify the whole amount of such exemptions, and deliver the certificate thereof to the clerk of the district, to be kept by him.

5. They will then collect the balance of the rate-bill against those exempted in part, for the amount remaining after such partial exemption, and against those not exempted either wholly or in part, for the amounts assessed against them respectively, by warrant, in the usual manner. Such warrants need not be under seal, and may be executed by the collector "in any other district or town, in the same manner, and with the like authority, as in the district for which he was chosen or appointed." (No. 132.)

6. The trustees will collect the amount of exemptions, as certified by them, by a tax, which they are authorized to impose by the 14th section (No. 127,) upon all the taxable inhabitants of the district, "in the same manner as if the definite sum to be raised had been voted by a district meeting." They may immediately proceed to impose this tax; or they may add the amount to any tax thereafter imposed for district purposes, as may be most convenient.

Trustees should exercise a liberal discretion in making exemptions in behalf of indigent inhabitants, so that the charge for tuition shall in no case be burdensome ; while, on the other hand, they should never allow the consideration of the trifling amount of the general tax for such exemption, when levied upon the whole taxable property of the district, to tempt them into an unnecessary exercise of the powers confided to them.

To illustrate this proceeding more fully, let us apply the several steps necessary to be taken in ordinary cases. Suppose a teacher employed for the usual term of four months, at twenty dollars per month. The public money, including local funds, belonging to the district, and applicable to the term, either by the decision of a district meeting, as above specified, or by the determination of the trustees, is forty dollars : the amount due the teacher for his quarter's services is, of course, eighty dollars, of which the trustees give him an order on the Town Superintendent for forty dollars, from the public money, and take his receipt therefor. They then call upon him for his list, kept and verified according to the provisions of § 11 of the act of 1841, (No. 122;) and after having ascertained from such list the number of days' attendance for which each person sending to school is liable, they will proceed to assess the respective proportions of the remaining forty dollars, from each, according to the whole number of days and children sent. Thus, if one inhabitant has sent four children for 104 days, he will be charged for 416 days, and so on. Suppose, upon adding up the whole number of days thus ascertained, the total is found to be 4,000, for the average attendance of forty scholars for the whole term : the proportion of forty dollars due for one scholar for each day, would be one cent : and this multiplied by the number of days each scholar attended, would give his proportion ; and by adding the proportions of each belonging to the same family, the amount due from each person sending to school is ascertained. The trustees then make out an assessment in the following form :

*Form of Assessment.*

Assessment containing the name of each person liable for teachers' wages in district No.      in the town of *Trenton*, for the term ending on the      day of      184      , and the amount for which each person is liable.

Names of inhabitants sending to school.	Whole No. days sent.	Amount of school bill.
John Jackson,.....	104	\$1 04
James Johnson,.....	416	4 16
Timothy Warner,.....	312	3 12
Peter Barney,.....	80	80
Solomon Kianey,.....	64	64
William Jones,.....	416	4 16
John Dye,.....	104	1 04
William Jones,.....	104	1 04
Thomas Jones,.....	620	6 20
John Radcliff,.....	620	6 20
James Tunnelcliff,.....	620	6 20
John Simons,.....	620	6 20
Joseph Williams,.....	360	3 60
	3,120	\$40 00

This assessment should be signed by the trustees and filed with the district clerk.

The next step is to exempt such indigent persons as the trustees may think proper, from the payment of the sums set opposite to their names, either wholly or in part. Suppose *Peter Barney* to be exempted wholly, and *Thomas Jones* and *John Radcliff* each from the payment of one-half the amounts assessed to them; the trustees will first make out a certificate, to be filed with the clerk of the district, in the following form:

*3. Certificate of Exemption.*

We, the undersigned, trustees of district No.      in the town of *Trenton*, do certify, that we have this day exempted *Peter Barney* from the payment of any share of the wages of the teacher employed in said district for the term ending on the      day of      18      , and *Thomas Jones* and *John Radcliff* each from the payment of one-half the amount assessed to them respectively, as their share of such wages.

Dated this      day of      18      .

A. B., }  
C. D., } *Trustees.*  
E. F., }

They will then proceed to make out their rate bill and warrant, in the following manner:

*Form of Rate Bill and Warrant.*

Rate bill, containing the name of each person liable for teachers' wages in district No. \_\_\_\_\_ in the town of *Trenton*, for the term ending on the \_\_\_\_\_ day of \_\_\_\_\_ 184\_\_\_\_, and the amount for which each person not exempted, either wholly or in part, from the payment of such amount, is so liable, with the fees of the collector thereon.

Names of inhabitants sending to school.	Whole number of days sent.	Amount of school bill.	Collector's fees therein.	Whole amount to be raised.	
John Jackson,.....	104	\$1 04	\$0 05	\$1 00	Paid to teachers. \$3 paid to teacher.
James Johnson,.....	416	4 16	21	4 37	
Timothy Warner,....	312	3 12	16	3 28	
Solomon Kinney,.....	54	54	03	57	
William Jones,.....	416	4 16	21	4 37	
John Dye,.....	104	1 04	05	1 09	
William Johnson,....	104	1 04	05	1 09	
Thomas Jones,.....	520	2 60	13	2 73	
John Radcliff,.....	520	2 60	13	2 73	
James Tunncliff,....	520	5 20	26	5 46	
John Simons,.....	520	5 20	26	5 46	
Joseph Williams,....	360	3 60	18	3 78	
	3,070	\$36 90	\$1 72	\$38 62	

To the collector of school district No. \_\_\_\_\_ in the town of *Trenton*, in the county of *Oneida*:

You are hereby commanded to collect from each of the persons in the annexed rate-bill named, the several sums mentioned in the last column thereof, excepting such sums as may have been collected by the teacher; and within thirty days after receiving this warrant to pay the amount so collected by you (retaining five per cent for your fees) into the hands of the trustees of said district, or one of them; and in case any person therein named shall neglect or refuse to pay the amount set opposite his name as aforesaid, you are to levy the same by distress and sale of the goods and chattels of such person.

Given under our hands this \_\_\_\_\_ day of \_\_\_\_\_ in the year of our Lord one thousand eight hundred and \_\_\_\_\_

A. B., }  
C. D., } *Trustees.*  
E. F., }

There will still remain \$3.10 of the amount due the teacher for his wages, being the amount of exemptions by the trustees; and this sum must be levied by a tax on all the taxable inhabitants of the district, and corporations holding property therein, in the same manner as though such amount had been actually voted by the district to be raised. If the teacher can wait upon the district, or the

trustees choose to advance the money in its behalf, the amount may be added to the next tax that may be voted for district purposes. It should, however, be assessed within a reasonable time; and wherever the amount of exemptions is sufficient to warrant an immediate assessment, it should at once be levied. The trustees must exercise a sound discretion in this respect, with reference to the amount to be raised, and the probability of an early opportunity to add it to some district tax.

Any inhabitant of the district liable for the payment of teachers' wages, may pay his proportion, to the teacher, at any time before the rate bill is actually made out; and such payment exempts him, to the extent so paid from the operation of the rate bill. The language of the 8th subdivision of § 12, (No. 103,) recognizes the right of collection on the part of the teacher; although, as before remarked, its exercise is, as a general rule, inexpedient. Where any portion of his bill is thus collected by the teacher, notice of the amount, and the name of the inhabitant paying it, should be given to the trustees, at the time of furnishing them with the list of pupils; and the amount so paid must be allowed to the credit of the person paying it. But the whole sum for which the rate bill and preliminary assessment is made out, is not to be varied by the fact of such payment; credit only is to be given for the advance to the teacher *in the rate-bill*; as otherwise, by diminishing the sum to be raised, by the amount so paid, a double assessment on the persons paying, would be the consequence.

Where a person agrees to pay for a certain number of scholars, he is entitled to the benefit of the public money in reduction of their school bills.—*Com. School Dec.* 83.

In making out rate-bills, inhabitants of districts can only be charged for so much time, as their children have actually attended school.—*Id.* 15.

All children attending the district school must be charged at the same rate for tuition, without regard to the studies pursued.—*Id.* 47.

A *resident* of a school district cannot be prosecuted by the trustees for the amount due on his rate-bill. The only remedy against him is by distress and sale of his goods and chattels.—*Id.* 264.

In the exercise of the power conferred upon the trustees, of exempting indigent inhabitants of their district from the payment of the whole or of portions of their rate-bills, the utmost liberality, compatible with justice to the district, should be indulged. Nothing can be more at variance with the benign spirit and intent of the school laws, than the compulsory distress and sale of articles of absolute necessity to an indigent family, for the purpose of satisfying the rate-bill for teachers' wages. And yet cases of this kind are frequently brought to the notice of the department. Every reasonable facility should be afforded to the children of the poor, for the attainment of all the blessings and advantages of elementary instruction: and this should never be permitted to become in any degree burdensome to their parents. Where any inhabitant of the district in indigent circumstances cannot meet the rate-bill for the payment of the teachers' wages, without subjecting himself to serious embarrassment, or his family to sensible deprivation, he should promptly and cheerfully be exonerated. A just feeling of pride may reasonably be expected to preclude any from availing themselves of this exemption, unless under the pressure of absolute necessity; and occasional abuses of the privilege so accorded, are productive of less disastrous results, than a prevailing impression among the indigent inhabitants of a district, that their children can partake of the advantages of common school education, only at a burdensome charge to themselves, and by a sacrifice of the ordinary necessities and comforts of their families.

Indigent persons may be exempted from the payment of school bills, whether there is public money to be applied to the term or not.—*Com. School Dec. 56.*

The exemption of indigent persons from the payment of the wages of teachers is a matter of discretion with the trustees, not regulated by any specific restrictions, but entrusted to them to be disposed of in good conscience, with a just regard to the rights of all concerned.—*Id. 241.*

Trustees are the sole judges of the ability of the persons residing within their respective districts to pay their school bills.—*Com. School Dec. 254.*

The wages of an unqualified teacher must be collected by rate-bill against those sending to school, in the same



manner as though he held a certificate, provided he was duly employed by the trustees.—*Id.* 61, 76, 213.

The wages of two teachers, employed for different terms, or different portions of the same term, at different rates of compensation, cannot be included in one rate-bill.—*Id.* 168, &c.

Trustees cannot transfer to teachers the right of enforcing the collection of their wages. If the teacher agrees to collect his own wages, it is right that he should do so, to the extent of his ability; but in case of failure, the trustees alone can issue a rate-bill and warrant; and they should do so notwithstanding any agreement to the contrary with the teacher.—*Id.* 268; *Per* DIX, *Supt.*

Trustees cannot include in a rate-bill any other object than the wages of the teacher under the contract made by them, excepting in certain cases where persons liable to provide fuel have not done so, on the proper requisition.

Where a person had from charitable motives, taken a poor family to reside with him, in his house, the children of which attended the district school, it was held that he was not liable for the tuition of such indigent children, unless they were sent to school by him under an express or implied contract to be responsible for such tuition; and that if sent by their parents, or if they attended school of their own accord, the trustees should exempt the parents from payment of the tuition bill.—*Per* SPENCER, *Supt.* 1840.

A grandfather is not *prima facie* liable for the board or schooling of a grandchild. He may, however, become liable, in the same manner and to the same extent as any individual who has a youth residing with him whom he supports and suffers to go to school, without giving any particular directions on the subject. An implication would arise that it was by his assent. But the father or mother is *prima facie* liable: and some positive acts on the part of the grandfather must be shown, amounting to an assumption of liability on his part before he can be held responsible for the payment of tuition under such circumstances.—*Id.* 1841.

By § 35 of the act of 1841, (No. 141,) "All children included in the reports of the trustees of any school district shall be entitled to attend the schools of such district;

and whenever it shall be necessary for the accommodation of the children in any district, the trustees thereof may hire temporarily any room or rooms for the keeping of schools therein; and the expense thereof shall be a charge on such district."

None but children residing in a school district can of right be benefitted by the public money. Indeed, the trustees can exclude all children, except those who are residents of the district, from the school. But if such non-resident children are permitted by the trustees to attend the school, their parents should be apprised of the conditions on which they are received: and one of those conditions should be, that no part of the public money shall be applied for their benefit. Where no such conditions however are exacted by the trustees, and such non-resident children are admitted on the application and responsibility of an inhabitant of the district, the trustees must make out the rate bill against such inhabitant in the usual manner.—*Com. School Dec. 11.*

Children of non-resident parents coming into a district and *boarding* for the purpose of attending school therein, are not entitled to any share of the public money in reduction of their rate-bills: and their tuition, in such case, may be charged, in the first instance, to the person with whom they board; whose liability therefor can be discharged only by express notice to the trustees, that he declines being accountable for such tuition. Where, however, such children are *hired* to labor or service in the family of an inhabitant of the district, or are regarded and treated as *part of the family* of such inhabitant and not as mere temporary *boarders*, they are entitled to participate equally with the other children of the district, in the public money.—*Per Young, Supt. 1842.*

Trustees cannot refuse admittance in the school to any child whose residence is in the district, if such child complies with the reasonable and proper regulations of the school.—*Com. School Dec. 47.*

No child residing in a school district can be excluded from the school on account of the inability of the parents to pay his tuition.—*Id. 119.*

If a non-resident owner of taxable property in the district, sends his children to the school in such district, they

should be permitted to attend, unless by their admission the school would become too crowded.—*Id.* 317.

All children residing in a district and attending the school, are entitled to participate in the public money, without reference to their ages.—*Id.* 34.

The law does not recognize any particular *age* in respect to the admission of children to the district school. As a general rule, *all* under the age of twenty-one years, and of a proper age to be benefited by instruction, are entitled to admission. There must, however, be some discretion vested in the trustees, in regard to such admission. Children having infectious diseases—idiots—infants—and persons over twenty-one, may undoubtedly be excluded; and colored children, where their attendance is obnoxious to the greater portion of the patrons of the school, especially in cases where schools have been established for their separate benefit, within a reasonable distance from their residence.—*Per SPENCER, Supt.* 1841.

By § 15, of the act of 1841, (No. 168,) a school for colored children may be established in any district, with the approbation of the commissioners, which is to be under the charge of the trustees of the district in which such school is established. Trustees in their annual reports are also required particularly to specify the number of such children over five and under sixteen years of age attending such school from different districts, naming such districts respectively, and the number from each attending for four months, and instructed by a duly qualified teacher, which report is to form the basis of an apportionment to such school, of a share of the public money.

The provisions contained in this section are more particularly applicable to those cities and large villages where no special legal provisions have been made for the instruction of colored children. The means provided, are it is true, altogether insufficient to meet the expense which must necessarily be incurred in the organization of these schools; and inasmuch as the class of community for whose special benefit they are intended are generally unable to contribute to such expense, in any considerable degree, the object in view can seldom be fully attained, but through the efforts of charitable and benevolent individuals in the several districts, from which the colored

schools are composed. These efforts have hitherto been paralyzed from the absence of any legal power to effect the necessary organization; and the provision now made was, doubtless, intended to supply that defect, and to furnish a nucleus around which the benevolent exertions of the friends of education and humanity might be concentrated. If, however, in any of the country districts, a colored school can be organized and efficiently kept up for the requisite length of time, it is hoped no efforts will be spared to carry into effect the provisions of the section. Colored children are entitled equally with all others, to the privileges and advantages of the district school: and wherever they can be grouped together in a separate school, under the charge of a competent teacher, they will be far more likely to derive the full benefits of such instruction as may be best adapted to their circumstances and condition, while at the same time, the disadvantages inseparable from their attendance at the district school, will be avoided.

Trustees have power, with the assent of the Town Superintendent, and by a vote of the inhabitants of their district, to purchase, hire or build a school-house or room for the accommodation of the colored children of their own and other adjoining districts; to supply the same with the necessary furniture, fuel and appendages; and to employ a competent teacher.

By § 11, of the act of 1841, (No. 122,) the trustees of each district are to provide a book, in which the teachers are to enter the names of the scholars attending school, and the number of days they shall have *respectively* attended, and also the number of times the school has been inspected by the County and Town Superintendents. This list is to be verified by the oath of the teacher.

Trustees cannot legally enforce the collection of a rate-bill, unless the teacher's list on which it is based, has been duly *verified* according to law. This is a condition designed for the protection of the *inhabitants sending to school* as well as of the trustees; and it is not enough that the latter are satisfied of the accuracy of the list. The inhabitants against whom the rate-bill is made out, have

a legal right to insist upon its *verification* by the affidavit of the teacher.

Where the trustees of a district engage a teacher for a specified term, and the inhabitants, without good cause, withdraw their children from the school, the whole, or the greater part of the teachers' money belonging to the district, will be directed, on a proper application, to be applied to the term during which such teacher has been employed.—*Com. School Dec.* 301.

*Deficiencies* in the amount directed to be raised by rate-bill must generally result from the omission, on the part of the trustees, to exempt, wholly or in part, indigent inhabitants; from subsequent inability on the part of those who, at the time of making out the rate-bill, were properly included, or their removal out of the reach of the collector's warrant; or from neglect of duty on the part of the collector. In the first two cases trustees may, when legally authorized by a vote of the district, add such deficiency to any tax thereafter to be voted for district purposes, or make out a separate tax list for the amount; and in the latter they may either hold the collector accountable for the deficiency, or renew the warrant, at their option. The inhabitants of a district may legally vote a tax to cover the amount of arrearages on rate-bills *which have accrued in consequence of the inability of the collector to collect* the amounts respectively charged to the inhabitants sending to school; and where such arrearages are directed by a vote of the district to be so raised, it will be presumed, until the contrary is made to appear, on appeal or otherwise, that such *inability* was shown. If, however, the inhabitants refuse to make provision for the collection of such arrearages, the trustees are without remedy, and must pay the amount out of their own pocket: inasmuch as it was their duty, in the first instance, to have made the necessary exemptions, and then to have insisted upon the prompt collection of the residue; or in case of unforeseen deficiencies, to have amended their rate-bill in season.—*Per Young, Sup't*, 1843.

It is the duty of the trustees to co-operate with the teacher in the government of the school, and to aid him, to the extent of their power and influence, in the enforcement of reasonable and proper rules and regulations; but

they have no right to dismiss a scholar, except for the strongest reasons ; for example, such a degree of moral depravity as to render an association with other scholars dangerous to the latter, or such violent insubordination as to render the maintenance of discipline and order impracticable.—*Per DIX, Superintendent, 1837.*

#### VI. DUTIES OF TRUSTEES IN REFERENCE TO THE DISTRICT LIBRARY.

The trustees of each school district are constituted by law the trustees of the library. They are responsible for its preservation and care ; and the librarian is subject to their direction, and may at any time be removed by them from office for wilful disobedience of such directions, or for any wilful neglect of duty, or even when they have reason to *apprehend* the loss of any books, or their injury or destruction by his misconduct. In case of such removal, or of a vacancy occurring from any cause, they are to supply such vacancy by appointment, until the next annual meeting of the district. They are personally liable to their successors for any neglect or omission in relation to the care and superintendence of the library, by which any books therein are lost or injured, to the full amount of such loss or injury, and their action in reference to its management, may be at any time controlled by the department; on appeal.

By the 4th section of chap. 237, of the Laws of 1838, (No. 179,) the sum of \$55,000 from the annual revenue of the U. S. Deposit Fund, was required to be annually distributed "to the support of common schools, in like manner and upon the like conditions as the school moneys now are or shall hereafter be distributed, except that the *trustees* of the several districts shall appropriate the sum received to the purchase of a district library for the term of three years, (afterwards by § 6 of chap. 177, Laws of 1839, (No. 185,) extended to five years,) and by the act of 1843, indefinitely, with the modifications therein expressed.

*Trustees* are, by this provision, authorized to make the selection of the books for the library, as the application of the money is to be made by them.

The object of the law for procuring district libraries is

to diffuse information, not only, or even chiefly, among children or minors, but among adults and those who have finished their common school education. The books, therefore, should be such as will be useful for circulation among the inhabitants generally. They should not be children's books, or of a juvenile character merely, or light and frivolous tales and romances, but works conveying solid information which will excite a thirst for knowledge, and also gratify it, as far as such a library can. Works imbued with party politics, and those of a sectarian character, or of hostility to the Christian religion, should on no account be admitted; and if any are accidentally received they should be immediately removed. Still less can any district be permitted to purchase school books, such as spelling books, grammars, or any others of the description used as text books in schools. Such an application of the public money would be an utter violation of the law. If any case of improper selection of books should come before the Superintendent, by appeal from any inhabitant, such selection would be set aside; and if it appeared from the reports, which according to these regulations must be made, that such books had been purchased, the Town Superintendent will be bound to withhold the next year's library money from such district. These penalties and provisions will be rigidly enforced; for upon a faithful administration of the law the usefulness and the continuance of the system will depend. If the public munificence be abused it will unquestionably cease.

The selection of books for the district library, is devolved by law exclusively upon the trustees; and when the importance of this most beneficent and enlightened provision for the intellectual and moral improvement of the inhabitants of the several districts, of both sexes and all conditions, is duly estimated, the trust here confided is one of no ordinary responsibility. In reference to such selections, but two prominent sources of embarrassment have been experienced. The one has arisen from the necessity of excluding from the libraries all works having directly or remotely, a sectarian tendency, and the other, from that of recommending the exclusion of novels, romances and other fictitious creations of the imagination, including a large proportion of the lighter literature of

the day. The propriety of a peremptory and uncompromising exclusion of those catch-penny, but revolting publications which cultivate the taste for the marvellous, the tragic, the horrible, and the supernatural—the lives and exploits of pirates, banditti and desperadoes of every description—is too obvious to every reflecting mind, to require the slightest argument. Unless parents desire that their children should pursue the shortest and surest road to ignominy, shame and destruction—should become the ready and apt imitators on a circumscribed scale, of the pernicious models which they are permitted and encouraged to study—they will frown indignantly on every attempt to place before their immature minds, works, whose invariable and only tendency is disastrous, both to the intellect and the heart.

The exclusion of works imbued to any perceptible extent with sectarianism, rests upon the great conservative principles which are at the foundation of our free institutions. Its propriety is readily conceded when applied to publications, setting forth, defending, or illustrating the peculiar tenets which distinguish any one of the numerous religious denominations of the day from the others. On this ground no controversy exists as to the line of duty. But it has been strongly urged that those “standard” theological publications which, avoiding all controverted ground, contain general expositions of Christianity—which assume only those doctrines and principles upon which all “evangelical” denominations of Christians are agreed, are not obnoxious to any reasonable censure, and ought not, upon any just principles, to be excluded from the school district library. There are two answers to this argument, either of which is conclusive. The one is, that the works in question, however exalted may be their merit, and however free from just censure, on the ground of sectarianism, are strictly *theological*, doctrinal or metaphysical; and therefore no more entitled to a place in the district library than works devoted to the professional elucidation of law, medicine, or any of the other learned professions. Their appropriate place is in the family, church or Sunday school library. The other answer is, that in every portion of our country are to be found conscientious dissenters from the most approved theological tenets of



these commentators on Christianity: individuals who claim the right, either of rejecting Christianity altogether, (as the Jews,) or of so interpreting its fundamental doctrines, as to place them beyond the utmost verge of "evangelical" liberality: and this too, without, in any degree, subjecting themselves to any well-founded imputations upon their moral character as citizens and as men. The state, in the dispensation of its bounty, has no right to trample upon the honest convictions and settled belief of this or of any other class of its citizens against whose demeanor, in the various relations of society, no accusation can be brought: nor can it rightfully sanction the application of any portion of those funds to which they, in common with others, have contributed, to the enforcement of theological tenets to which they cannot conscientiously subscribe. Any work, therefore, which, departing from the inculcation of those great, enduring and cardinal elements of religion and morality which are impressed upon humanity as a part of its birth-right—acknowledged by all upon whom its stamp is affixed, however departed from in practice, and incorporated into the very essence of Christianity as its pre-eminent and distinctive principle—shall descend to a controversy respecting the subordinate or collateral details of theology, however ably sustained and numerously sanctioned, has no legitimate claim to a place in the school district library: nor can its admission be countenanced consistently with sound policy or enlightened reason.

The following general principles have been recently laid down in a special report on common school libraries, prepared under the direction of the department by HENRY S. RANDALL, Esq., County Superintendent of common schools of Cortland county, and may be regarded as the settled principles of the department in reference to this class of books:

"1. No works written professedly to uphold or attack any sect or creed in our country, claiming to be a religious one, shall be tolerated in the school libraries.

"2. Standard works on other topics shall not be excluded, because they incidentally and indirectly betray the religious opinions of their authors.

"3. Works avowedly on other topics which abound in

direct and unreserved attacks on, or defences of, the character of any religious sect; or those which hold up any religious body to contempt or execration, by singling out or bringing together only the darker parts of its history or character, shall be excluded from the school libraries.

"Is it said that under the above rules, heresy and error are put on the same footing with true religion—that Protestant and Catholic, orthodox and unorthodox, Universalist, Unitarian, Jew, and even Mormon, derive the same immunity? The fact is conceded; and it is averred that each is equally entitled to it, in a government whose very Constitution avows the principle of a full and indiscriminate religious toleration.

"He who thinks it hard that he shall not be allowed to combat; through the medium of the school libraries, beliefs, the sin and error of which are as clear to him as is the light in Heaven, will bear in mind that the library at least leaves him and his religious beliefs, in as good a condition as it found him. If it will not propagate his tenets, it will leave them unattacked. If he is not allowed to use other men's money to purchase books to assault their religious faiths, he is not estopped from expending his own as he sees fit, in his private, or in his Sunday-school library—nor is he debarred from placing these books in the hands of all who are willing to receive them. His power of morally persuading his fellow men is left unimpaired; nor will he, if he has any confidence in the recuperative energies of truth—if he believes his God will ultimately give victory to truth—ask more. In asking, or condescending to accept the support of an earthly government, he admits the weakness of his cause, the feebleness of his faith. He leans on another arm than that which every page in the Bible declares all-sufficient. In what age of the world has any church entered into meretricious connexion with temporal governments, and escaped unscathed from the contact? Any approximation to such connexion, even in the minutest particular—any exclusive right or immunity given to one religious sect or another in the school library or elsewhere, is not only anti-religious, but anti-republican. As men we have the right to adopt religious creeds, and to attempt to influence others to

adopt them; but as Americans, as legislators or officials dispensing privileges or immunities among American citizens, we have no right to know one religion from another. The persecuted and wandering Israelite comes here, and he finds no bar in our naturalization laws. The members of the Roman, Greek, or English church equally become citizens. Those adopting every hue of religious faith—every phase of heresy, take their place equally under the banner of the Republic—and no ecclesiastical power can snatch even 'the least of these' from under its glorious folds. Not an hour of confinement, not the amercement of a farthing, not the deprivation of a right or liberty weighing 'in the estimation of a hair' can any such power impose on any American citizen, without his own full and entire acquiescence."

With reference to the admission of novels, romances, and other works of the imagination, usually comprehended under the term "light reading," the proper course to be adopted cannot be better illustrated than by the following extracts from a recent report of the majority of a committee appointed by the Board of Commissioners of common schools of the city of Utica, to examine the books in the school district library of the city, and to report, among other things, as to the character and tendency of any objectionable works they might discover therein.

"The importance of applying the funds provided by the state, with rigid regard to their appropriate object, is so weighty—and the temptations to misapply them, in consequence of a present prevailing fondness for light and equivocal literature, are so strong, that your committee deem it proper to enter somewhat into an examination of the principles which should govern those to whom is entrusted the responsible duty of making selections for school district libraries.

"A library for instruction is a very different thing from a library for amusement. The circulating library of a place of public resort for invalids or persons in pursuit of ease and pleasure, is essentially of a trifling character: the library of a college, or eminent public institution, is composed of graver and more elevated productions. While the book shelves of a light young man are filled with frivolous and amusing works, those of a student display the

treasures of standard literature. School district libraries should not fall below the dignity of usefulness; in proportion as they do, they fail of fulfilling the true design of their institution.

"A consideration of the object of instituting these libraries will enable us to judge pretty correctly of the general character of the books which should compose them; it is obviously, the information and improvement of the body of the people who can read, without reference to parties, sects, classes, callings, or professions. 'The primary object of their institution,' says the Superintendent who recommended it, 'was to disseminate works suited to the intellectual improvement of the great body of the people, rather than to throw into school districts for the use of young persons, works of a merely juvenile character.' It was, in the language of a succeeding Superintendent, 'to diffuse information—not only, or even chiefly, among children or minors—but among adults and those who have finished their common school education.' It was, in short, to provide a supplemental source of instruction to those on whom the common school has exhausted its more limited means.

"Improvement and information, then, form the main object of these libraries. It is only thus that they become the proper subjects of public munificence. Entertainment, simply as entertainment, is not to be regarded in making selections for the school district library. It is no part of our public policy to provide amusements for the people. In this particular we have improved not only on antiquity, but on many modern governments, by substituting, in the place of vain and wasteful public shows and frivolities, those more substantial and elevating subjects of public bounty, which consist in permanent and wise institutions, designed to fit our citizens for the proper discharge of their duties as members of a great community, whose duration and prosperity depend upon the knowledge and virtue of the people.

"We first teach the children of the republic to read, and to appreciate instruction. We lead them to thirst for information, and then seek to open the fountains which may satisfy that thirst. The common school is the first step in their advancement—the school district library is

partially designed to be the second. It supplies information of a more varied and extensive sort—and if that information comes clothed in allurements of a virtuous, or entertainment of an innocent character, it is the more welcome on that account. These are mere incidents, however—when they appear alone, they want that substantial recommendation which is necessary to secure their introduction into the school district library. Books designed for amusement simply—to while away a vacant hour, and be forgotten like ephemera—are evidently no worthy occupants of the shelves of such a library. There is enough which is instructive and substantial to exhaust the public liberality, without squandering the well-meant beneficence of the state in transient and trivial publications, which amuse to-day and to-morrow are rubbish. 'The books, therefore,' says one of the Superintendents before quoted, 'should be such as will be useful among the inhabitants generally. They should not be children's books, or of a juvenile character, or light and frivolous tales and romances; but works conveying solid information, which will excite a thirst for knowledge, and also gratify it, as far as such a library can.'"

The following remarks from the last annual report of the Superintendent of common schools, will exhibit more fully the view taken of this branch of the subject by the department:

"There is reason to apprehend that the officers charged with the duty of selecting books for these libraries have too generally failed to appreciate the importance of a suitable provision for the intellectual and moral wants of the *children* of the district. Much misapprehension has existed on this subject, in consequence of the general prohibition, contained in the instructions heretofore communicated from this department, against the introduction into the school libraries of books of 'a *merely juvenile* character.' The true principles upon which the selections for these institutions should be made, may be clearly inferred, as well from the original design of the appropriation, as from the contemporaneous exposition of the Superintendent, under whose immediate auspices it was first carried into effect. The distribution of the fund provided for this purpose, was directed by the act under which it was

supplied, to be made 'in like manner and upon the like condition as the school moneys are now or shall hereafter be distributed, except that the trustees of the several districts shall appropriate the sum received to the purchase of a district library.' The amount of library money, therefore, under this provision, to which each district became entitled, was in proportion to the *number of children* between the ages of five and sixteen, residing therein, compared with the aggregate number in all the districts, and not in proportion to the adult population merely, or the whole population combined. The primary object of the institution of district libraries, was declared in the circular of Gen. Dix accompanying the publication of the act of 1838, to be 'to disseminate works suited to the intellectual improvement of the great body of the people, rather than to throw into school districts for the use of the young, *books of a merely juvenile character*; and that by collecting a large amount of useful information, where it will be easily accessible, the influence of these establishments can hardly fail to be in the highest degree salutary to those who have finished their common school education, as well as to those who have not. The object in view will probably be best answered by having books suitable for all ages above ten or twelve years, though the proportion for those of mature age ought to be by far the greatest.' When it is considered that the foundations of education are laid during the period of youth, and that the taste for reading and study is, with rare exceptions, formed and matured at this period, if at all, the importance of furnishing an adequate supply of books, adapted to the comprehension of the immature but expanding intellect—suited to its various stages of mental growth, and calculated to lead it onward by a gradual and agreeable transition, from one field of intellectual and moral culture to another, cannot fail to be appreciated. And even if the intellectual wants of many of the inhabitants of the districts, of more mature age, are duly considered, it admits of little doubt that a due proportion of works of a more familiar and elementary character than are the mass of those generally selected, would have a tendency not only to promote, but often to create that taste for mental pursuits which leads by a

rapid and sure progression to a more extended acquaintance with the broad domains of knowledge. Those whose circumstances and pursuits in life, have hitherto precluded any systematic investigation of literary subjects, and who, if they possessed the desire, were debarred the means of intellectual improvement now brought within their reach, can scarcely be expected to pass at once to that high appreciation of useful knowledge, which the perusal of elaborate treatises on any of the numerous branches of science or metaphysics requires; and the fact brought to view by the annual reports of the County Superintendents, that by far the greater proportion of the inhabitants of the several districts neglect to avail themselves of the privileges of the library, indicates too general a failure, to supply these institutions with the requisite proportion of elementary books.

"In the selection of books for the district libraries, suitable provision should be made for every gradation of intellectual advancement; from that of the child, whose insatiable curiosity eagerly prompts to a more intimate acquaintance with the world of matter and of mind, to that of the most finished scholar, who is prepared to augment his stock of knowledge by every means which may be brought within his reach. The prevalence of an enlightened appreciation of the requirements of our people in this respect, has already secured the application of the highest grade of mental and moral excellence to the elementary departments of literature; and works adapted to the comprehension of the most immature intellect, and at the same time capable of conveying the most valuable information to more advanced minds, have been provided—wholly free, on the one hand, from that puerility which is fit only for the nursery, and on the other, from those generalizations and assumptions which are adapted only to advanced stages of mental progress. A more liberal infusion of this class of publications, sanctioned by the approbation of the most experienced friends of education, into our district libraries, would, it is confidently believed, remove many of those obstacles to their general utility, which otherwise are liable to be perpetuated from generation to generation."

It is the duty of the trustees to provide a plain and suf

sufficient case for the library, with a good lock, if the district shall have neglected to do so. They are also to cause the books and case to be repaired as soon as may be, when injured; and to provide sufficient wrapping paper to cover their books, and the necessary writing paper to enable the librarian to keep minutes of the delivery and return of books. These are proper expenses for the preservation and repair of the books, and are to be defrayed by a tax on the district, which is to be added by the trustees to any tax voted by a district meeting. It is not necessary that the tax to defray these expenses should be voted by the inhabitants of the district; it is to be assessed and collected in the same manner as a tax for building or repairing a school-house, or to furnish it with necessary fuel and appendages.

The trustees of each school district are required, at the time of making their annual reports, to deliver to the Town Superintendent of common schools of their town, a catalogue containing the titles of all the books in the district library, with the number of volumes of each set or series, and the condition of such books, whether sound, or injured, or defaced. This catalogue must be signed by them and by the librarian.

Trustees are authorized by the regulations of the Superintendent in pursuance of law, to impose the following fines:

1st. For each day's detention of a book beyond the time allowed by the regulations, six cents, but not to be imposed for more than ten days' detention.

2d. For the destruction or loss of a book, a fine equal to the full value of the book, or of the set, if it be one of a series, with the addition to such value of ten cents for each volume. And on the payment of such fine, the party fined shall be entitled to the residue of the series. If he has also been fined for detaining such book, then the said ten cents shall not be added to the value.

3d. For any injury which a book may sustain after it shall be taken out by a borrower and before its return, a fine may be imposed of six cents for every spot of grease or oil upon the cover or upon any leaf of the volume; for writing in or defacing any book, not less than ten cents; nor more than the value of the book; for cutting or tear-



ing the cover, or the binding, or any leaf, not less than ten cents, nor more than the value of the book.

4th. If a leaf be torn out, or so defaced or mutilated that it cannot be read, or if any thing be written in the volume, or any other injury done to it, which renders it unfit for general circulation, the trustees will consider it a destruction of the book, and will impose a fine accordingly, as above provided in case of loss of a book.

5th. When a book shall have been detained seven days beyond the twenty days allowed by the regulations, the librarian is to give notice to the borrower to return the same within three days. If not returned at that time, the trustees may consider the book lost or destroyed, and may impose a fine for its destruction in addition to the fines for its detention.

Previous to the imposition of any fine, two days' written or verbal notice is to be given by any trustee, or the librarian, or any other person authorized by either of them, to the person charged, to show cause why he should not be fined for the alleged offence or neglect; and if within that time good cause be not shown, the trustees must impose the fine herein prescribed. No other excuse for an extraordinary injury to a book, that is, for such an injury as would not be occasioned by its ordinary use should be received, except the fact that the book was as much injured when it was taken out by the person charged, as it was when he returned it. As such loss must fall on some one, it is more just that it should be borne by the party whose duty it was to take care of the volume, than by the district. Negligence can be prevented, and disputes avoided, only by the adoption of this rule. Subject to these general principles the imposition of all, or any of these fines, is *discretionary* with the trustees, and they should ordinarily be imposed only for *wilful* or *culpably negligent* injuries to books, or where the district actually sustains a loss, or serious injury. Reasonable excuses for the detention of the books beyond the twenty days, should in all cases be received.

The librarian is to inform the trustees of every notice given by him to show cause against the imposition of a fine; and they are to assemble at the time and place appointed by him, or by any notice given by them, or any

one of them ; and to hear the charge and defence. They are to keep a book of minutes, in which every fine imposed by them, and the cause, shall be entered and signed by them, or the major part of them. Such original minutes, or a copy certified by them, or the major part of them, or by the clerk of the district, is made conclusive evidence of the fact that a fine was imposed as stated in such minutes, according to the regulations.

It is the duty of trustees to prosecute promptly for the collection of all fines imposed by them. Fines collected for the detention of books, or for injuries to them, are to be applied to defray the expense of repairing the books in the library. Fines collected for the loss or destruction of any book, or of a set or series of books, are to be applied to the purchase of the same or other suitable books.

#### VII. ANNUAL REPORT OF TRUSTEES.

##### 1. WHEN TO BE MADE, AND WHAT TO CONTAIN.

By the fourteenth section of the act of 1843, trustees are required to make and transmit their annual reports to the Town Superintendent, between the *first and fifteenth days of January* in each year. By § 91, (No. 136,) such report is to be dated on the first day of January, and must specify:

1. The whole time any school has been kept in their district during the year ending on the day previous to the date of such report, and distinguishing what portion of the time such school has been kept by qualified teachers:

2. The amount of moneys received from the Town Superintendent of common schools, during such year, and the manner in which such moneys have been expended:

3. The number of children taught in the district during such year :

4. The number of children residing in the district, on the last day of December previous to the making of such report, over the age of five years and under sixteen years of age, (except Indian children, otherwise provided for by law,) and the names of the parents or other persons with whom such children shall respectively reside, and the number of children residing with each.

5. The amount of money paid for teachers' wages, in

addition to the public money paid therefor, and such other information in relation to the schools and the districts as the Superintendent of common schools may from time to time require.

By virtue of the authority conferred on the Superintendent, under this provision, they are also required to state in their annual reports,

1. The number of books belonging to their district library on the last day of December in each year:

2. The number of times the school in their district has been inspected and visited by the County and Town Superintendents, respectively, during the year reported:

3. The names of the several school books in use in the school in their district, during such year:

4. The number of pupils who have attended the school in said district for a term less than two months, during the said year; the number attending two, and less than four months; the number attending four and less than six months; the number attending six and less than eight months; the number attending eight and less than ten months; the number attending ten and less than twelve months; and the number attending twelve months:

5. The number of select and private schools in their district, other than incorporated seminaries, and the average number of pupils attending them during the preceding year:

6. The number of colored children between the ages of five and sixteen years, attending any school for such children established in the district, and instructed therein at least four months by a teacher duly licensed, specifying the number attending from different districts, designating such districts, and the number from each, the amount of public money received from the Town Superintendent for such schools, during the year ending with the date of their report, and the amount paid for the compensation of such teacher, over and above the public money so received.

One of the most important items in the annual report of trustees is the number of children residing in the district between the ages of 5 and 16, as it affords the most sure and practical test of the progress of primary education. There is reason to believe, that the reports have heretofore been very inaccurate in this respect. Some

difficulty has, it is true, been experienced in determining with the requisite precision, the children proper to be included within the boundaries of the several districts; but the specific provisions of the late act, § 34, (No. 140,) will, it is believed, remove every difficulty of this kind. By that section it is required that the reports shall include all children over 5 and under 16, who, at the date of the report, are *actually* in the district, composing part of the family of their employers, &c. residing at the time in the district, although such residence,—that is of the employers, parents, &c. be *temporary*. But children belonging to the family of a person who is an inhabitant of another district, are not to be included. If therefore a person who is not an inhabitant of some other district, resides temporarily in a given district, all the children belonging to his family are to be reported. The law embraces a class of persons who were not before enumerated in any district—those whose parents or employers had not gained a residence in the state.

Children attending an academy, are to be enumerated, only where their parents are actually residents of the district in which the academy is situated.—*Com. School Dec. 58.*

Trustees are expressly prohibited by law from including in their enumeration children supported at a county poor-house, (No. 139.)

The children of a man removing on the last day of December from one district to another, are to be enumerated in the district into which he moves. The enumeration is made with a view to the apportionment of the money for the succeeding year; and it is proper that the money drawn upon the basis of that enumeration should as far as possible, go to the district in which the children enumerated are to reside, and in which the money received for their benefit is to be expended.—*Com. School Dec. 216.*

A man cannot, however, gain a *residence* in a place unless he goes there *with the intention of remaining*. Where, therefore, an inhabitant of a school district leaves such district with the whole or a portion of his family a few days previous to the last of December, and goes into another district, where after remaining a few days, he

returns to the former district, his children are nevertheless to be enumerated by the trustees of the district to which he evidently belongs.—*Per YOUNG, Sup't.*

*Form of a district report to be made by the Trustees to the Town Superintendent of Common Schools.*

To the Town Superintendent of common schools of the town of

We, the trustees of school district number                      in said town, in conformity with the statutes relating to common schools, do certify and report, that the whole time any school has been kept in our district during the year ending on the date hereof, and since the date of the last report for the said district is, [*here insert the whole time any school has been kept in the district school-house, although for a part of that time it may have been kept by teachers not duly qualified,*] and that during said year and since the date of said last report such school has been kept by a teacher [*or teachers as the case may be*] after obtaining a certificate of qualification, according to law, is [*here insert the time with precision:*] that the amount of money apportioned to our district by the Town Superintendent of common schools during the said year and since the date of the said last report, except library money, is [*here insert the whole amount, excepting library money, although it may have been received in whole or in part by predecessors in office,*] and that the said sum has been applied to the payment of the compensation of teachers employed in the said district and licensed as the statute prescribes. [*If the amount apportioned has not been expended, the reason for such omission should be particularly specified.*] That the amount of library money received in our district from the Town Superintendent of common schools during said year and since the date of the said last report, is [*here insert the whole amount of library money, although it may have been received in whole or in part by predecessors in office,*] and that the said sum was, on or before the first day of October last, applied to the purchase of a library for the district, [*or to the purchase of a map of the State of New-York, a terrestrial globe, a black-board, &c., (specifying particularly the articles purchased) in pursuance of a vote of the district at a special meeting called and held according to law.*] That the number of volumes belonging to the district library and on hand on the last day of December last, is [*here insert the whole number of volumes.*] That the number of children taught in said district, during said year and since last report is [*here insert the same, not by conjecture, but by reference to the teacher's list, or other authentic sources.*] That of the said children (10) attended less than two months; (5) two months and less than four; (8) four months and less than six; (4) six months and less than eight; eight months and less than ten; ten months and less than twelve; twelve months. And that the number of children residing in our district on the last day of December last, who are over five and under sixteen years of age, is [*here insert the number, taking in such as resided in the district on the last day of December, and who were then over five and under sixteen years of age,*] and that the names of the parents, and other

persons with whom such children respectively reside, and the number residing with each are as follows, viz:

Parents, &c.	No. of children.
A. B., .....	5
C. D., .....	3

[If a colored school has been taught in the district the following should be added:]

That the number of colored children between the ages of 5 and 16 years attending a school taught in our district during the year aforesaid, by a licensed teacher for at least four months, was [24;] of whom [10] reside in said district, [5] attending from district No. 5, [4] from district No. 7, [2] from district No. 6, and [3] from district No. 19. That the whole amount of public money received from the Town Superintendent of common schools of our town, during the year aforesaid, for the use of said colored school, was \$ and that the said sum has been applied to the compensation of the teacher thereof: and that the amount paid to such teacher, over and above the public money so received, was \$ .]

And we further report, that our school has been visited by the County Superintendent of the county times, and by the Town Superintendent, in company with the County Superintendent times, and by said Town Superintendent separately times, during the year preceding this report, and that the sum paid for teachers' wages, over and above the public moneys apportioned to said district, during the same year, amounts to \$ . [This blank is to be filled with the sum total of all the school bills for the year, which are made out after applying the school money to the payment of teachers' wages.] That the school books in use in said district during said year, are the following, viz: [Here specify the titles of all the text books used in the school during the several terms. That there have been private or select schools, not incorporated, taught in said district during the year aforesaid, and that the average number of pupils in attendance therein was. [Here state the number as near as can be ascertained.]

Dated at the first day of January, in the year of our Lord one thousand eight hundred and

A. B. }  
C. D. } Trustees.  
E. F. }

*Form of a District Report, where the district is formed out of two or more adjoining towns.*

To the Town Superintendent of common schools of the town of

We, the trustees of school district number , formed partly out of said town, and partly out of the adjoining town of , do, in conformity with the statutes relating to common schools, certify and report,

That the school-house in said district is situated in the town of (or on the line of the towns of and .) That the whole time any school has been kept in our district, during the year ending on the date hereof, and since the date of the last report for said district, is [here insert the whole time any school has been kept in the

*district school-house, although for a part of that time it may have been kept by teachers duly qualified,] and that the time during said year and since the date of said last report, such school has been kept by a teacher, [or teachers, as the case may be,] after obtaining a certificate of qualification according to law is [here insert the time with precision.] That the amount of money apportioned to our district by the Town Superintendents of common schools, during the said year, and since the date of the said last report, excepting library money, is [here insert the whole amount excepting library money, although it may have been received in whole or in part by predecessors in office,] and that the said sum has been applied to the payment of the compensation of teachers employed in said district, and licensed as the statute prescribes. That the amount of library money received in our district from the Town Superintendent of common schools during said year, and since the date of said last report, is [here insert the whole amount of library money, although it may have been received in whole or in part by predecessors in office,] and that the said sum was, on or before the first day of October last, applied to the purchase of a library for the district, [or to the purchase of maps, globes, &c. (specifying the articles purchased) in pursuance of a vote of the district at a special meeting called and held in the manner prescribed by law.] That the number of volumes belonging to the district library and on hand on the last day of December last, is [here insert the whole number of volumes.] That the number of children taught in said district during said year, and since said last report, is [here insert the same, not by conjecture, but by reference to the teachers' list or other authentic sources.] That of the said children [10] attended less than two months, [8] two months and less than four, [6] four months and less than six, [8] six months and less than eight, [3] eight months and less than ten, ten months and less than twelve, twelve months. And that the number of children residing in our district on the last day of December last, who are over five and under sixteen years of age, is [here insert the number, taking in such only as actually reside in the district on said day, and who were then over five and under sixteen years of age,] and that the names of the parents or other persons with whom such children respectively reside, and the number residing with each, are as follows, viz :*

Parents, &c.

No. of children

A. B.,..... 5

C. D.,..... 3

[If a colored school has been taught in the district the following should be added:]

That the number of colored children between the ages of 5 and 16 years attending a school taught in our district during the year aforesaid, by a licensed teacher for at least four months, was (24,) of whom (10) reside in said district, (5) attended from district No. 5, (4) from district No. 7, (2) from district No. 6, and (3) from district No. 19. That the whole amount of public money received from the Town Superintendent of common schools of our town during the year aforesaid, for the use of said colored school, was

\$ , and that the said sum has been applied to the compensation of the teacher thereof; and that the amount paid to such teacher over and above the public money so received, was \$ .]

And we do further specify and report, that of the said sum of money so as above stated to have been apportioned to our district, to be applied to the payment of teachers' wages, the sum of [*here insert the same with precision,*] was for and on account of that part of said district lying in said town of , and the sum of for and on account of the other part thereof, lying and being in said town of . That of the said sum of money, so as above stated to have been received in our said district for the purchase of a district library, the sum of [*here insert the same with precision,*] was received for and on account of that part of said district lying in said town of , and the sum of for and on account of the other part thereof lying and being in the said town of . That of the said children, so above stated to have been taught in our said district, the number belonging to that part of said district lying in said town of is , and that the number belonging to the other part thereof, lying in said town of is . That of the said children between the said ages of five and sixteen years, so as above, stated to reside in our district, the number residing in that part of said district lying in said town of is , and that the number residing in the other part thereof, lying in said town of is .

And we do further report that our school has been inspected by the County Superintendent during the past year [*once or twice, or not at all, as the case may be,*] by the Town Superintendent, in company with the County Superintendent, [*once, &c.*] and by said Town Superintendent separately, [*once or twice, &c.*] That the sum paid for teachers' wages in said district, over and above the public money apportioned to said district, during the same year, amounts to \$ cents, of which dollars cents, were paid by that part of the district lying in the town of and dollars cents, by that part lying in the town of

[*This blank is to be filled with the sum total of all the school bills for the year, which are made out after applying the school money to the payment of the teachers' wages.*]

That the school books in use in said district, during said year, are the following, viz: [*Here specify the title of all the text books used in the school during the several terms.*] That there have been private or select schools, not incorporated, taught in said district during the year aforesaid, and that the average number of pupils in attendance therein was [*here state the number, as near as can be ascertained.*]

Dated at , this first day of January in the year of our Lord one thousand eight hundred and

A. B., }  
C. D., } Trustees.  
E. F., }

By the sixth section of the act 1839, (No. 106,) "Town Superintendents of common schools, and trustees and



clerks of school districts, refusing or wilfully neglecting to make any report, or to perform any other duty required by law, or by regulations or decisions made under the authority of any statute, shall severally forfeit to their town, or to their district, as the case may be, for the use of the common schools therein, the sum of ten dollars for each such neglect or refusal, which penalty shall be sued for and collected by the supervisor of the town, and paid over to the proper officers, to be distributed for the benefit of the common schools in the town or district to which such penalty belongs; and when the share of school or library money apportioned to any town or district, or school, or any portions thereof, or any money to which a town or district would have been entitled, shall be lost in consequence of any wilful neglect of official duty by any Town Superintendent of common schools, or trustees or clerks of school districts, the officers guilty of such neglect shall forfeit to the town or district the full amount, with interest, of the moneys so lost; and they shall be jointly and severally liable for the payment of such forfeiture."

By § 96 of the school act, (No. 145.) "Every trustee of a school district, or separate neighborhood, who shall sign a false report to the Town Superintendent of common schools of his town, with the intent of causing such Town Superintendent to apportion and pay to his district or neighborhood, a larger sum than its just proportion of the school moneys of the town, shall, for each offence, forfeit the sum of twenty-five dollars, and shall also be deemed guilty of a misdemeanor."

VIII. TRUSTEES ACCOUNTING TO THEIR SUCCESSORS, PAYING OVER BALANCES AND DELIVERING PAPERS TO THEM.

By § 98, et seq. of the school act, (No. 148,) et seq. "The trustees of each school district shall, on the expiration of their offices, render to their successors in office, and to the district, at a district meeting, a just and true account, in writing, of all moneys received by them respectively, for the use of their district, and of the manner in which the same shall have been expended; which account shall be delivered to the district clerk, and be filed by him. Any balance of such moneys, which shall appear from such account to remain in the hands of the

trustees, or either of them, at the time of rendering the account, shall immediately be paid to some one or more of their successors in office. Every trustee who shall refuse or neglect to render such account, or to pay over any balance so found in his hands, shall, for each offence, forfeit the sum of twenty-five dollars. It shall be the duty of his successors in office to prosecute, without delay, in their name of office, for the recovery of such forfeiture; and the moneys recovered shall be applied by them to the use and benefit of their district schools. Such successors shall also have the same remedies for the recovery of any unpaid balance in the hands of a former trustee, or his representatives, as are given to the Town Superintendent of common schools against a former Superintendent and his representatives: and the moneys recovered shall be applied by them to the use of their district, in the same manner as if they had been paid without suit. All bonds or securities taken by the trustees from the collector of their district, shall, on the expiration of their office, be delivered over by them to their successors in office."

#### IX. SUITS BY AND AGAINST TRUSTEES.

##### 1. SUITS BY TRUSTEES.

By § 4, of chap. 44, Laws of 1831, (No. 88,) trustees are authorized to sue for and recover the moneys due upon any security taken by them, or their predecessors in office, on the sale of the school-house and site of their district, in the cases provided for by that section, with interest and costs.

By § 87, R. S. (No. 126,) the trustees are authorized to sue for and recover the value of, or amount paid for, the proportion of fuel which any inhabitant of the district shall neglect to provide, on notice, together with costs of suit.

By § 89, (No. 133,) trustees are authorized to prosecute for the amount due on a tax list or rate-bill, against non-residents of their district, where no goods or chattels can be found in the district whereon to levy.

By § 90, (No. 135,) they are directed, in case the moneys apportioned to their district are withheld by the

Town Superintendent, to prosecute for the recovery thereof, with interest, or to pursue such other remedy for the recovery thereof, as is or shall be given by law. This provision, it is supposed, is applicable only to cases of *illegal* detention in the hands of the Town Superintendent, of money apportioned to a district, and not to the withholding of such money in consequence of the discovery of some illegality or informality in the reports from the districts. Where the right of the district to its share is incontestible, and the amount is still withheld for any reason, the trustees are directed to prosecute, and the proper remedy in such a case, would be an action of *assumpsit* for money had and received to the use of the district or teacher against such Town Superintendent.

By § 101, (No. 151,) trustees are directed to prosecute their predecessors for the recovery of the forfeiture of twenty-five dollars, incurred by a refusal or neglect to account, or to pay over any balance due from them, on the expiration of their term of office, and to apply the money recovered to the use and benefit of their school; and by § 102, (No. 152,) in connection with § 40, (No. 48,) they are authorized to prosecute for any unpaid balance in the hands of a former trustee, or his representatives, and directed to apply the amount recovered to the use of the district, in the same manner as if it had been paid without suit.

By § 109, (No. 159,) they are also authorized to prosecute for the recovery, with interest and costs, of all forfeitures incurred by a collector, and unpaid balances in his hands, and to apply the moneys recovered in the same manner as if paid without suit.

By § 9, of the act of 1841, (No. 73,) trustees are to prosecute for the recovery of the fine of ten dollars, with costs of suit, imposed upon any inhabitant voting at any school district meeting without being qualified.

## 2. SUITS AGAINST TRUSTEES.

It is conceived that an essential service may be rendered to officers connected with common schools, by informing them of some general principles to show the extent of their liability to suits by individuals.

Officers required by law to exercise their judgments are

not answerable for mistakes of law, or mere errors of judgment, without any fraud or malice. *Jenkins vs. Waldron*, 11th *Johnson's Reports*, 114.

A public officer who is required by law to act in certain cases, according to his judgment or opinion, and subject to penalties for his neglect, is not liable to a party for an omission arising from a mistake, or want of skill, if acting in *good faith*. *Seaman vs. Patten*, 2d *Caine's Reports*, 312.

But an officer entrusted by the common law or by statute is liable to an action for *negligence* in the performance of his trust, or for *fraud* or neglect in the execution of his office. *Jenner vs. Joliffe*, 9 *John. Rep.* 391.

And an officer who commands an act to be done by issuing a warrant or other process, if he act without *jurisdiction* of the subject matter, or of the person, is liable as a trespasser. *Horton vs. Auchmordy*, 7 *Wendell*, 200. But if he have jurisdiction, errors in judgment do not subject him to an action.

Mere irregularities in proceedings will not render an officer, having discretionary powers, or acting as a judge, liable to a civil suit. There is a large class of cases, in which the remedy is only by plea to the proceedings or by writ of error.—See *Buller vs. Potter*, 17 *Johns.* 145, and *Griffin vs. Mitchell*, 2 *Cowen's Rep.* 548.

The collector or other officer who *executes* process, has peculiar protection. He is protected, although the court or officer issuing such process, have not, in fact, jurisdiction of the case; if on the face of the process it appears that such court or officer had jurisdiction of the *subject matter*, and nothing appears in such process to apprise the officer but that there was jurisdiction of the person of the party affected by the process.—*Savacool vs. Boughton*, 5 *Wendell's Reports*, 170.

A contract made by all the trustees, and signed by two, is binding; and where a contract is signed, or a warrant issued, by two trustees, the presence of the third will be presumed until the contrary be shown. Two trustees can contract against the will of the third, if he was duly notified of a meeting of the trustees, or was consulted and refused to act.—*McKoy vs. Courtree*, 9 *Wen.* 17.

Where a district votes a tax to purchase a new site and

build a school-house thereon, where the consent of the Town Superintendent had not been obtained for a change of the site, (the district not being an altered one,) the trustees are liable in trespass for making out a tax list and issuing a warrant for the collection of such tax; on the ground that the district had no authority to vote such tax.—*Baker vs. Freeman*, 9 *Wendell*, 36.

Trustees are not liable as trespassers for omitting to insert the names of all the taxable inhabitants in the tax list, where there is no evidence of bad faith on their part.—*Easton vs. Calendar*, 11 *Wendell*, 90.

Subordinate tribunals are not liable as trespassers for acts done growing out of an error of judgment.—*Id.*

Trustees are liable in trespass for making out their tax list upon any other basis than the last assessment roll of the town, after it has been reviewed and finally settled by the assessors.—*Alexander vs. Hoyt*, 7 *Wend.* 89.

Inhabitants of a district must vote a precise and definite sum as a tax for building a school-house, or any other purpose, and trustees will not be authorized to issue their warrant to levy a tax under a general vote.—*Robinson vs. Dodge*, 18 *Johns.* 351.

Trustees in office are liable on the contracts of their predecessors for the employment of teachers, personally, because they have the means of indemnifying themselves, and those who made the contract are not liable after the expiration of their term of office.—*Silver vs. Cumming*, 7 *Wendell*, 181.

The court intimate a distinction between those cases where the trustees are not to act unless money is previously raised, and those where it is to be collected subsequent to the performance of the work. In the first class of cases they are not to incur responsibilities beyond the means in their possession; they render themselves personally responsible, and their successors are not holden. The first class of cases would seem to include those only which are specified in sub. 5, of § 75, (No. 103,) and those in which blank books, maps, globes, black boards, and other school apparatus may be procured by means of a previous tax. In these cases successors are supposed not to be liable, unless money comes into their hands for the purpose.

In all other cases, it is supposed successors are liable on the contracts of their predecessors.

It is quite important to trustees to know that the decisions of this department have been, uniformly, that their costs in any suit cannot be paid by a vote of the district to levy a tax for that purpose; as the only purposes for which a tax can be voted are specified in the statutes, and this is not among them.

Questions respecting the liability of trustees for their joint acts, and for the acts of each other, are frequently presented. It becomes proper to state the grounds and limits of their responsibility in this respect, that they may be better enabled to guard against its consequences.

The object being to secure fidelity to the trust and to prevent negligence and fraud, the rules which govern in the cases of executors, guardians and other private trustees, must be applicable to officers holding a similar fiduciary relation to the public, and therefore the principles which have been settled in those cases by the courts, will be the guide in determining the extent of the liability of trustees.

The general rule, as laid down by an eminent jurist, (Story on Equity Jurisprudence,) and sustained by the adjudged cases, is, that joint trustees are responsible only for their own acts, and not for the acts of each other, unless they have made some agreement by which they have expressly agreed to be bound for each other; or have, by their voluntary co-operation or connivance, enabled the other to accomplish an object in violation of the trust. This rule is exemplified in the following cases:

1. Where money has been received jointly, all are in general liable for its application, and a joint receipt is presumptive evidence of the fact that it came to the hands of all; but either may show that his joining in the receipt was formal or necessary, and that the whole of the money was in fact received by his companions. And if it was misapplied before there was a reasonable opportunity to control it, he would not be responsible.

2. When by any positive act, direction, or agreement, of one joint trustee, the money is paid over and comes to the hands of the others, when it might and should have

been otherwise controlled or secured by both, then each will be chargeable for the whole.

There is great difficulty in applying this rule to the case of trustees of common schools. The money for distribution cannot be in the hands of more than one; there are ordinarily no means of insuring a control over it by all, by depositing it in a bank or other place of security, and there is no authority by which any two trustees could require the third to give security for its faithful disbursement. One has as much right to its custody as another. The simple fact, therefore, that public money has been received by one and misapplied, cannot in itself render the others liable. It would seem, therefore, that there should be some act of omission or commission on the part of the others to render them liable for the misconduct of their associate; and here the following rule seems better adapted to the case:

3. If one trustee wrongfully suffer the other to detain the trust money *a long time* in his own hands without security, or should lend it to him on his simple note, or should join with the other in lending it on insufficient security, in all such cases he would be held liable for any loss. Of course, a trustee who has connived at or been privy to an embezzlement of the trust money would be liable. And if it be mutually agreed between them that one shall have the *exclusive* management of one part of the trust property, and the other of another part, both would be liable for the acts of each.

Considering the equal rights and powers of each trustee, that the law has made no provision for requiring security from them, and the gross injustice of making an officer responsible for the misconduct of an associate over whom he has no control, they ought not to be held liable for each other's acts, unless there be some evidence of participation or connivance, like those specified in the third class of cases above mentioned.

By section 108, of title 4, chap. 8, part 3, Rev. Stat. p. 476, vol. 2, 1st edition, [§ 112, p. 390, 2d edition, vol. 2,] it is provided that in suits against trustees of school districts, and other officers, "the debt, damages or costs recovered against them, shall be collected in the same manner as against individuals; and the amount so collected

shall be allowed to them in their official accounts." It is presumed that this provision does not relate to actions for personal delinquencies, but to those only which arise out of an official duty. As the recoveries are to be "allowed them in their accounts," it is implied that they may retain the amount of moneys in their hands, and set off the sums recovered. But this cannot apply to the public school moneys, as those moneys are appropriated by law to specific purposes, and can not be diverted to any other.

By § 33, of the act of 1841, (No. 167,) "It is provided that, in any suit which shall hereafter be commenced against Town Superintendents of common schools, or officers of school districts, for any act performed by virtue of, or under color of, their offices, or for any refusal or omission to perform any duty enjoined by law, and which might have been the subject of an appeal to the Superintendent, no costs shall be allowed to the plaintiff in cases where the court shall certify that it appeared on the trial of the cause that the defendants acted in good faith. But this provision shall not extend to suits for penalties, nor to suits or proceedings to enforce the decisions of the Superintendent."

#### **IX. MISCELLANEOUS PROVISIONS APPLICABLE TO TRUSTEES**

##### **1. SCHOOLS FOR COLORED CHILDREN.**

By § 15, of the act of 1841, (No. 168,) a school for colored children may be established in any district, with the approbation of the Town Superintendent, which is to be under the charge of the trustees of the district in which such school is established. Trustees, in their annual reports, are also required particularly to specify the number of such children over five and under sixteen years of age attending such school from different districts, naming such districts respectively, and the number from each attending for four months, and instructed by a duly qualified teacher, which report is to form the basis of an apportionment to such school, by the Town Superintendent, of a share of the public money. Full and explicit instructions to Town Superintendents and trustees, and the necessary forms for reports in relation to these schools, will be found under the appropriate heads.



The provisions contained in this section are more particularly applicable to those cities and large villages where no special legal provisions have been made for the instruction of colored children. The means provided, are, it is true, altogether insufficient to meet the expense which must necessarily be incurred in the organization of these schools; and inasmuch as the class of community for whose special benefit they are intended is generally unable to contribute to such expense in any considerable degree, the object in view can seldom be fully attained, but through the efforts of charitable and benevolent individuals in the several districts from which the colored schools are composed. These efforts have hitherto been paralyzed by the absence of any legal power to effect the necessary organization; and the provision now made, was doubtless intended to supply that defect, and to furnish a nucleus around which the benevolent exertions of the friends of education and humanity might be concentrated. If, however, in any of the country districts, a colored school can be organized and efficiently kept up for the requisite length of time, it is hoped no efforts will be spared to carry into effect the provisions of the section. Colored children are entitled equally with all others, to the privileges and advantages of the district school: and wherever they can be grouped together in a separate school, under the charge of a competent teacher, they will be far more likely to derive the full benefits of such instruction as may be best adapted to their circumstances and condition, while at the same time, the disadvantages inseparable from their attendance at the district school, will be avoided.

## 2. BOND TO BE REQUIRED OF THE COLLECTOR.

Trustees are authorized by § 106, (No. 156,) to require of the collector of their district, before delivering to him any warrant for the collection of moneys, to execute a bond to them, in their corporate name, with one or more sureties, to be approved by one or more of their number, in double the amount to be collected, conditioned for the due and faithful execution of the duties of his office: and in case any collector shall not execute such bond within the time allowed him by the trustees for that purpose,

which shall not be less than ten days, his office is vacated, and the trustees are authorized to appoint any other person residing in the district as collector in his place.

It is strongly recommended to trustees to exact of the collector, the bond required to be given by him, under the 106th section of the school law, whenever any warrant is placed in his hands. This practice will be attended with very little trouble, and will secure the district from all loss, and the trustees themselves from personal liability, in many instances. It will also secure the prompt collection of taxes and rate-bills, and promote system and regularity in the financial affairs of the district.

*Form of a Bond to be given by a District Collector.*

Know all men by these presents, that we, A. B. and C. D., (the collector and his surety,) are held and firmly bound to E. F. and G. H. &c., trustees of school district number      in the town of      in the sum of (here insert a sum double the amount to be collected,) to be paid to the said E. F., G. H., &c. trustees as aforesaid, or to the survivor or survivors of them, or their successors; to the which payment, well and truly to be made, we bind ourselves, our heirs, executors and administrators, firmly by these presents. Sealed with our seals, and dated this      day of      18      &c.

Whereas the above bounden A. B. has been chosen (or appointed, as the case may be,) collector of the above mentioned school district number      in the town of      in conformity to the statutes relating to common schools; now, therefore, the condition of this obligation is such that if he the said A. B. shall well and truly collect and pay over the moneys assessed upon the taxable inhabitants of said district, in a rate-bill or tax list, [*as the case may be,*] dated the      day of      and this day received by the said collector, which assessment amounts to a total sum of      dollars and      cents, and shall in all respects duly and faithfully execute the said warrant, and all the duties of his office as collector of such district, then this obligation shall be void, otherwise to be in full force and virtue.

Signed, sealed and delivered, }  
in the presence of }

A. B. [L. s.]  
C. D. [L. s.]



## CHAPTER V.

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### DISTRICT CLERK.

THE general duties of this officer are particularly specified in § 74, of the school act (No. 102.) He is to keep in a book, to be provided by the district, a record of the proceedings of each annual and special meeting held in his district ; to give notice of the time, place and object of such meetings in the manner prescribed by law ; and to preserve all records, books and papers relating to the district, and deliver the same, on the expiration of his official term, to his successor.

By § 17 of the Laws of 1841, (No. 79,) he is to notify a special meeting for the election of officers, whenever the time for holding the annual meeting has passed, without such election being held ; and generally it is his duty to give the necessary legal notices of a district meeting, whenever required to do so by a majority of the trustees. The purpose and object of such meetings should in all cases be set forth in general terms ; and this is specially required by law when a meeting is called for the purpose of changing the site and removing the school-house in an unaltered district. [See Nos. 85, 86 and 87.] And also when a tax is to be levied for the purchase of books for a district library. [See No. 175.]

By § 63, (No. 82,) it is declared that " the proceedings of no district meeting, annual or special, shall be held illegal for want of a due notice to all the persons qualified to vote thereat, unless it shall appear that the omission to give such notice was wilful and fraudulent." But this provision will not exonerate a clerk from liability for gross neglect ; nor will it sanction an intentional omission to give notice.

Notices of annual and special meetings must be given at least five days before the day on which such meetings

are directed to be held ; that is, the notices for a meeting to be held on *Saturday* for instance, must be given on or before the preceding *Monday*.

In the case of *annual* meetings, or special meetings, which have been *adjourned* for a longer time than one month, a notice in writing, affixed in at least four public places in the district, is sufficient ; but notices of *special* meetings must be personally served on each inhabitant of the district *liable to pay taxes*, (which includes, of course, every legal voter in the district) " by reading the notice in the hearing of such inhabitant, or in case of his absence from home, by leaving a copy thereof, or of so much thereof as relates to the time and place of such meeting, at the place of his abode." (§ 56, No. 67.)

*Form of Notice for Annual Meeting.*

Notice is hereby given, that the annual meeting for the election of officers in district No.            in the town of           , and for the transaction of such other business as the meeting may deem necessary, will be held at the school-house in said district on *Monday*, the            day of            at six o'clock, P. M.

Dated this            day of           

A. B. District Clerk.

*Form of Notice for an adjourned District Meeting, to be posted up in four public places in the District.*

SCHOOL DISTRICT NOTICE.

Notice is hereby given, that a meeting of the freeholders and inhabitants of school-district, No.            in the town of           , authorized by law to vote therein, will be held at            on the            day of            next, (or instant, as the case may be,) at            o'clock in the            noon, pursuant to adjournment.

Dated this            day of            A. D. 18           

A. B. District Clerk

*Form of a Notice for a Special District Meeting.*

To the clerk of district number           

The trustees of district number            at a meeting held for the purpose, have resolved that a special meeting be called at the school-house, on            the            day of            18            at            o'clock in the            noon of that day, for the purpose of [*choosing a collector in place of A. B. removed, or whatever the object of the meeting may be,*] and for the transaction of such other business as the meeting may deem necessary.

You will therefore notify each inhabitant of the district entitled to vote therein, by reading this notice in his hearing, or if he is absent from home, by leaving a copy of it, or so much as relates to

Dated at                      this                      day of                      18

A. B., }  
C. D., } *Trustees.*  
E. F., }

In pursuance of § 32, of the act of 1841, (No. 169,) the District School Journal is forwarded by mail, to the clerk of each district, whose duty it is, by that section, to cause each volume to be bound at the expense of the district, and to deposit the same in the district library. He or one of the trustees is therefore bound to take the paper from the post-office, punctually, paying the postage, quarterly in advance: and the amount so paid, being an expenditure authorized by law, may be added by the trustees to any tax list thereafter made out for district purposes, and refunded to the clerk, or trustee paying it. Great care should be taken to secure the regular receipt and careful preservation of the numbers, which will be sent on the first of each month; and with this view, the clerk should stitch them together in covers, as soon as they arrive; and in no case permit them to be taken out of his custody, although any inhabitant of the district should be allowed free access to them, for the purpose of perusal, at all proper hours. The same precautions should be observed, and the same freedom of access and perusal allowed, in respect to the volume of Laws and Instructions, the volume of Common School Decisions and Laws heretofore published, and all other books, papers and documents belonging to the district, and placed under his official control.

They will observe that heavy penalties and forfeitures are incurred by them, under § 6 of the act of 1839, (No. 166,) for neglect of any duty devolved upon them by law; and that they are made individually responsible for any loss that may accrue to their district, in consequence of such neglect, & omission.



## CHAPTER VI.

### COLLECTORS OF SCHOOL DISTRICTS.

It is the duty of the collector of each district "to collect and pay over to the trustees of his district, some or one of them, all moneys which he shall be required by warrant to collect, within the time limited by such warrant for its return, and to take the receipt of such trustee or trustees, for such payment." § 105, (No. 155.)

When required by the trustees, such collector is to execute a bond, with one or more sureties, to be approved by one or more of the trustees, in double the amount of any tax list, (or rate-bill,) to be collected, and conditioned for the due and faithful performance of his duty. § 106, (No. 156.)

In case such bond is not executed within the time allowed by the trustees for that purpose, which shall not be less than ten days, the office of the collector is vacated, and the trustees may appoint any other person to supply the vacancy.

#### 1. JURISDICTION OF THE COLLECTOR.

By § 28, of the act of 1841, (No. 132,) the jurisdiction of the collector in the execution of his warrant, is unlimited; and extends to any other district or town, "in the same manner, and with the like authority, as in the district for which he was chosen or appointed."

#### 2. MODE OF PROCEEDING IN THE COLLECTION OF TAXES AND RATE-BILLS.

By various provisions of the school act collectors are authorized and required, in the execution of warrants, delivered to them for the collection of tax lists and rate-bills, to collect the amount due from the respective persons nam-



ed in such warrants, *in the same manner that collectors of towns are authorized to collect town and county taxes.* This is specifically pointed out by the following extracts from the 13th chapter of the first volume of the Revised Statutes, (pages 397, 398.)

"§ 1. Every collector, upon receiving the tax list and warrant, shall proceed to collect the taxes therein mentioned, and for that purpose shall call at least once on the person taxed, or at the place of his usual residence, if in the town or ward for which such collector has been chosen, and shall demand payment of the taxes charged to him on his property.

"§ 2. In case any person shall refuse or neglect to pay the tax imposed on him, the collector shall levy the same by distress and sale of the goods and chattels of the person who ought to pay the same, or of any goods and chattels in his possession, wheresoever the same may be found within the district of the collector; and no claim of property to be made thereto by any other person shall be available to prevent a sale.

"§ 3. The collector shall give public notice of the time and place of sale, and of the property to be sold, at least six days previous to the sale, by advertisements to be posted up in at least three public places in the town where such sale shall be made. The sale shall be by public auction.

"§ 4. If the property distrained shall be sold for more than the amount of the tax, the surplus shall be returned to the person in whose possession such property was when the distress was made, if no claim be made to such surplus by any other person. If any other person shall claim such surplus on the ground that the property sold belonged to him, and such claim be admitted by the person for whose tax the same was distrained, the surplus shall be paid to such owner; but if such claim be contested by the person for whose tax the property was distrained, the surplus moneys shall be paid over by the collector to the supervisor of the town, who shall retain the same until the rights of the parties shall be determined by due course of law."

"No replevin shall lie for any property, taken by virtue of any warrant for the collection of any tax, assessment

or fine, in pursuance of any statute of this state."—*2d R. S. page 522, sec. 4.*

These provisions must, however, be subject to the action of congress, on a subject which by the Constitution is within its jurisdiction. The Constitution in express terms gives to congress the power "to provide for organizing, arming and disciplining the militia."

By the act of congress of May 8, 1792, vol. 2, Laws of the U. S. 298,) every citizen enrolled in the militia is required to provide himself with the following accoutrements, viz: "a good musket or firelock, a sufficient bayonet and belt, two spare flints and a knapsack, a pouch with a box therein, to contain not less than twenty-four cartridges suited to the bore of his musket or firelock, each cartridge to contain a proper quantity of powder and ball; or with a good rifle, knapsack, shot pouch and powder horn, twenty balls suited to the bore of his rifle, and a quarter of a pound of powder;" and the commissioned officers are required to be armed with a sword or hanger, or espartoon; and it is declared that "every citizen so enrolled and providing himself with the arms, ammunition and accoutrements required as aforesaid, shall hold the same exempted from all suits, distresses, executions or sales for debt or for the payment of taxes."

By the laws of this state (chap. 6, part 3, title 5, § 22, vol. 2, R. S.) the "arms and accoutrements required by law to be kept by any person," as well as a variety of other articles therein specified, are exempt from execution but not from distress from taxes. The only exemption, therefore, from the operation of a collector's warrant on a tax list or rate-bill, arises under the act of congress before quoted; and this can only be extended to the arms, ammunition and accoutrements therein specified.

The collector or other officer who executes process, has peculiar protection. He is protected, although the court or officer issuing such process, have not, in fact, jurisdiction of the case; if on the face of the process it appears that such court or officer had jurisdiction of the *subject matter*, and nothing appears in such process to apprise the officer but that there was jurisdiction of the person of the party affected by the process. *Savacool vs. Boughton*, 5 *Wendell's Reports*, 170.

When a *tax* is assessed for any distinct purpose, the collector is entitled to five per cent *on the whole amount collected and paid over by him* to the trustees, *or received by the latter*. He is likewise entitled to five per cent on all sums *collected by him or by the trustees on rate-bills*; but not on sums paid to or collected by the teacher, *prior to the delivery of the rate-bill to the collector*. When payments are voluntarily made to the teacher by the patrons of the school, the persons thus paying, save the five per cent for collector's fees, as the law recognizes such payments, and authorizes the trustees to make out a warrant against such only as are liable for the residue of the teachers' wages.—*Com. School Dec. 54.*

Where *trustees* receive payments either on tax lists or rate bills, they are regarded as receiving the same as the *agents of the collector*; and the latter is entitled to his percentage on the amount so received, and may legally collect it by virtue of his warrant. The collector is also entitled to his percentage on the amount paid by the trustees, notwithstanding no actual exchange of funds is made between the latter and the former.—*Per YOUNG, Superintendent 1843.*

A *teacher*, if otherwise eligible, may be collector; but he cannot charge a percentage on voluntary payments of his own wages.—*Id.*

Collectors are allowed the usual fees of distress and sale, in addition to their percentage, where they take and sell the property of delinquents.—*Com. School Dec. 111.*

Where a collector levies upon and sells property for the payment of a tax list or rate-bill, and the owner of the property refuses to receive the excess beyond an amount sufficient to satisfy the warrant, the collector must retain the amount in his own hands, and rely upon his plea of tender.—*Id. 217.*

In the execution of his warrant, the collector should aim to take property amply sufficient to satisfy the amount he is required to collect, and no more. He is not bound to take any particular article of property which may be offered: but if *at the request of the owner*, he were to take and sell property worth ten times the amount required to be raised, such request would constitute a valid answer to the charge of making an excessive distress.—*Id. 219.*

Trustees may require a bond of the collector, whenever any warrant is delivered to him for collection; and although such bond is conditional generally, for the due and faithful execution of *the duties of his office*, it may be questionable whether it is binding, excepting for *the specific purpose for which it is given*; that is, to secure the execution of the warrant about to be received by him. It is therefore clearly proper to exact a bond, whenever a warrant is to be delivered to him, provided the sum to be collected is of such an amount as to render it of any consequence: and if, through the omission of the trustees to require it, any moneys should be lost, they would be wholly inexcusable for failing to take a precaution which the law has provided for the express purpose of affording entire security to the district.—*Id.* 240.

If the collector gives a bond, and *after collecting part of a tax* resigns, he is clearly liable, under § 103, of the school act, for the whole amount of moneys which might have been collected within the time limited in the warrant delivered to him for their collection, unless those moneys are thereafter collected; especially where there has been any neglect on his part.—*Id.* 241.

Where, by the neglect of a collector, moneys which might have been collected by him within the time limited, are lost to the district, he is liable for the amount, *whether he has given a bond to the trustees or not*. The bond is an additional security; but if it is not required of him, he is not released from any obligation which the law imposes on him.—*Id.* 308.

So, where a warrant runs out in his hands, he is answerable for any loss arising from his neglect, notwithstanding such warrant may have been afterwards renewed and delivered to his successor.—*Id.*

A trustee of a school district cannot hold the office of collector. The same objection is not applicable to the district clerk; although, as the law has created separate offices, it is better to carry out its intention strictly, by conferring them on different individuals.—*Id.* 142.

If the warrant annexed to a rate-bill, or tax list, is signed by a majority of the trustees, it is sufficient for the protection of the collector, *although the third trustee was not, in fact, present, or consulted*.—*Id.* 228.

Where a warrant is renewed by the trustees, the collector in office at the time of such renewal, must execute it.—*Id.* 47.

Where a warrant is issued for the collection of a tax which has not been legally assessed, according to the last assessment roll of the town, or otherwise, or where the trustees have included in the tax list persons not liable to be so included, such warrant is a protection to the collector, notwithstanding the trustees might be answerable in trespass.—*Id.* 282.

A collector cannot legally *sell* property after the expiration of his warrant, unless such warrant is renewed, notwithstanding a previous levy.—*Id.* 286.

Where the collector, in the execution of a warrant, receives money current at the time of its receipt, but which subsequently becomes depreciated or valueless, before payment to the trustees, the *district*, and not the collector, must lose the amount.—*Per SPENCER, Sup't*, 1841.

The collector can pay over money collected by him only to the trustees, or on their order.—*Per DIX, Sup't*, 1238.

Trustees have no power to indemnify a collector for improperly selling property under their warrant.—*Id.*

The *representatives of a deceased person* are not entitled to any delay in the payment of a rate-bill, or tax list, but are bound to pay on demand : and on refusal or neglect, the collector may proceed to sell any property found on the premises. By § 27, sub. 2, 2 R. S. 28, taxes of all kinds have preference to any other demand.—*Per SPENCER, Sup't*, 1840.

Where a collector levies upon property *out of his district*, he should put up notices of the sale of such property, as well in the district where the sale is to take place as in that of his residence.—*Per YOUNG, Sup't*, 1842.

## CHAPTER VII.

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### LIBRARIAN.

THIS officer is to be chosen at the annual meeting of the district. In case the inhabitants neglect at such meeting to choose such officer, the district clerk becomes *ex-officio* librarian, until the vacancy is filled by the trustees, or by the inhabitants, at their next annual meeting.

By the first section of chap. 177, Laws of 1839, (No. 180,) "The librarian of any district library shall be subject to the directions of the trustees thereof, in all matters relating to the preservation of the books and appurtenances of the library, and may be removed from office by them for wilful disobedience of such directions, or for any wilful neglect of duty; and whenever they shall have reason to apprehend the loss of any such books, or their injury, or destruction by his misconduct; and whenever a vacancy shall exist in the office of librarian, the same shall be supplied by the trustees until the next annual meeting of the inhabitants of the district."

By the third section of the same act, (No. 182,) "A set of general regulations respecting the preservation of school district libraries, the delivery of them by librarians and trustees to their successors in office, the use of them by the inhabitants of the district, the number of volumes to be taken by any one person at any one time, or during any term, the periods of their return, the fines and penalties that may be imposed by the trustees of such libraries for not returning, losing or destroying any of the books therein, or for soiling, defacing or injuring them, may be framed by the Superintendent of common schools, and printed copies thereof shall be furnished to each school district of the state; which regulations shall be obligatory upon all persons and officers having charge of such libraries, or using or possessing any of the books thereof.

Such fines may be recovered in an action of debt in the name of the trustees of any such library, of the person on whom they are imposed, except such person be a minor; in which case they may be recovered of the parent or guardian of such minor, unless notice in writing shall have been given by such parent or guardian to the trustees of such library, that they will not be responsible for any books delivered such minor. And persons with whom minors reside shall be liable in the same manner, and to the same extent, in cases where the parent of such minor does not reside in the district."

By § 35, (No. 184,) "The legal voters in any two or more adjoining districts may, in such cases as shall be approved by the Superintendent of common schools, unite their library moneys and funds as they shall be received or collected, and purchase a joint library for the use of the inhabitants of such districts, which shall be selected by the trustees thereof, or by such persons as they shall designate, and shall be under the charge of a librarian to be appointed by them; and the foregoing provisions of this act shall be applicable to the said joint libraries, except that the property in them shall be deemed to be vested in all the trustees for the time being of the districts so united. And in case any such district shall desire to divide such library, such division shall be made by the trustees of the two districts whose libraries are so united, and in case they cannot agree, then such division shall be made by three disinterested persons, to be appointed by the Superintendent of common schools."

By the regulations of the Superintendent made in pursuance of this provision, the librarian is required, whenever any library is purchased and taken charge of by him to make out a full and complete catalogue of all the books contained therein. At the foot of each catalogue he is to sign a receipt in the following form:

I, A. B., do hereby acknowledge that the books specified in the preceding catalogue have been delivered to me by the trustees of school district No.        in the town of        to be safely kept by me as librarian of the said district for the use of the inhabitants thereof, according to the regulations prescribed by the Superintendent of common schools, and to be accounted for by me according to the said regulations to the trustees of the said district, and to be delivered to my successor in office. Dated, &c.

A correct copy of the catalogue and receipt is then to be made, to which the trustees are to add a certificate in the following form :

We the subscribers, trustees of school district No.        in the town of        do certify that the preceding is a full and complete catalogue of books in the library of the said district now in possession of A. B., the librarian thereof, and of his receipt thereon. Given under our hands this        day of        18       

The catalogue having the librarian's receipt, is to be delivered to the trustees, and a copy having the certificate of the trustees, is to be delivered to the librarian for his indemnity.

Whenever books are added to the library, a catalogue with a similar receipt by the librarian is to be delivered to the trustees, and a copy with a certificate of the trustees that it is a copy of the catalogue delivered them by the librarian, is to be furnished to him. Every catalogue received by trustees is to be kept by them carefully among the papers of the district and to be delivered to their successors in office.

Whenever a new librarian shall be chosen, all the books are to be called in. For this purpose the librarian is to refuse to deliver out any books for fourteen days preceding the time so prescribed for collecting them together. At these periods, they must make a careful examination of the books, compare them with the catalogue, and make written statements in a column opposite the name of each book, of its actual condition, whether lost or present, and whether in good order or injured, and if injured, specifying in general terms, the extent of such injury. This catalogue, with the remarks, is to be delivered to the successors of the trustees to be kept by them ; a copy of it is to be made out, and delivered to the new librarian with the library, by whom a receipt in the form above prescribed is to be given, and to be delivered to the trustees. Another copy certified by them as before mentioned, is to be delivered to the librarian.

Trustees, on coming into office, are to attend at the library for the purpose of comparing the catalogue with the books. They are at all times when they think proper, and especially on their coming into office, to examine the books carefully, and note such as are missing or injured.



For every book that is missing the librarian is accountable to the trustees for the full value thereof, and for the whole series of which it formed a part: such value to be determined by the trustees. He is accountable also for any injury which a book may appear to have sustained, by being soiled, defaced, torn, or otherwise. And he can be relieved from such accountability only by the trustees, on its being satisfactorily shown to them that some inhabitant of the district has been charged or is chargeable for the value of the book so missing, or for the amount of the injury so done to any work. It is the duty of the trustees to take prompt and efficient measures for the collection of the amount for which any librarian is accountable.

The librarian must cause to be pasted in each book belonging to the library, a printed or written label, or must write in the first blank leaf of each book, specifying that the book belongs to the library of school district No. , in the town of , naming the town and giving the number of the district; and he is on no account to deliver out any book which has not such printed or written declaration in it. He is also to cause all the books to be covered with strong wrapping paper, on the back of which is to be written the title of the book, and its number in large figures. As new books are added, the numbers are to be continued, and they are in no case to be altered; so that if a book be lost, its number and title must still be continued on the catalogue, with a note that it is missing.

The librarian must keep a blank book, that may be made by stitching together half a dozen or more sheets of writing paper. Let these be ruled across the width of the paper so as to leave five columns of the proper size for the following entries, to be written lengthwise of the paper: in the first column, the date of the delivery of any book to any inhabitant; in the second, the title of the book delivered, and its number; in the third, the name of the person to whom delivered; in the fourth, the date of its return; and in the fifth, remarks, respecting its condition, in the following form:

Time of delivery.	Title & No. Book.	To whom.	When returned.	Condition.
1839, June 10.	History of Va. 43.	T. Jones.	30th June.	Good.

As it will be impossible for the librarian to keep any trace of the books without such minutes, his own interest to screen himself from responsibility, as well as his duty to the public, will, it is to be hoped, induce him to be exact in making his entries at the time any book is delivered; and when it is returned, to be equally exact in noting its condition, and making the proper minute.

A fair copy of the catalogue should be kept by the librarian, to be exhibited to those who desire to select a book; and if there be room, it should be fastened on the door of the case.

**REGULATIONS CONCERNING THE USE OF THE BOOKS IN DISTRICT LIBRARIES PRESCRIBED BY THE SUPERINTENDENT OF COMMON SCHOOLS PURSUANT TO THE THIRD SECTION OF THE "ACT RESPECTING SCHOOL DISTRICT LIBRARIES," PASSED APRIL 15, 1839.**

I. The librarian has charge of the books and is responsible for their preservation and delivery to his successor.

II. A copy of the catalogue required to be made out by Articles III. and IV. of Regulations No. I, is to be kept by the librarian, open to the inspection of the inhabitants of the district at all reasonable times. It will be found convenient to affix a copy of it on the door of the book-case containing the library.

III. Books are to be delivered as follows:

- 1st. Only to inhabitants of the district.
- 2d. One only can be delivered to an inhabitant at a time, and any one having a book out of the library must return it before he can receive another.
- 3d. No person upon whom a fine has been imposed by the trustees under these regulations, can receive a book while such fine remains unpaid.
- 4th. A person under age cannot be permitted to take out a book unless he resides with some responsible inhabitant of the district; nor can he then receive a book if notice has been given by his parent or guardian or the person with whom he resides, that they will not be responsible for books delivered such minor.
- 5th. Each individual residing in the district, of sufficient age to read the books belonging to the library, is to be regarded as an inhabitant, and is entitled to all the be-

nefits and privileges conferred by the regulations relative to district libraries. Minors, will draw in their own names, but on the responsibility of their parents or guardians.

6th. Where there is a sufficient number of volumes in the library to accommodate all residents of the district who wish to borrow, the librarian should permit each member of a family to take books as often as desired, so long as the regulations are punctually and fully observed. But where there are not books enough to supply all the borrowers, the librarian should endeavor to accommodate as many as possible, by furnishing each family in proportion to the number of its readers of borrowers.

IV. Every book must be returned to the library within twenty days after it shall have been taken out, but the same inhabitant may again take it, unless application has been made for it, while it was so out of the library, by any person entitled, who has not previously borrowed the same book, in which case such applicant shall have a preference in the use of it. And where there have been several such applicants, the preference shall be according to the priority in time of their applications, to be determined by the librarian. Upon application to the Superintendent, the time for keeping books out of the library will be extended to a period not exceeding twenty-eight days, where sufficient reasons for such extension are shown.

V. If a book be not returned at the proper time, the librarian is to report the fact to the trustees; and he must also exhibit to them every book which has been returned injured by soiling, defacing, tearing, or in any other way, before such book shall be again loaned out, together with the name of the inhabitant in whose possession it was when so injured.

VI. The trustees of school districts being, by virtue of their office, trustees of the library, are hereby authorized to impose the following fines:

- 1st. For each day's detention of a book beyond the time allowed by these regulations, six cents, but not to be imposed for more than ten days' detention.
- 2d. For the destruction or loss of a book, a fine equal to the full value of the book, or of the set, if it be one

of a series, with the addition to such value of ten cents for each volume. And on the payment of such fine, the party fined shall be entitled to the residue of the series. If he has also been fined for detaining such book, then the said ten cents shall not be added to the value.

3d. For any injury which a book may sustain after it shall be taken out by a borrower, and before its return, a fine may be imposed of six cents for every spot of grease or oil upon the cover, or upon any leaf of the volume; for writing in or defacing any book, not less than ten cents, nor more than the value of the book; for cutting or tearing the cover, or the binding, or any leaf, not less than ten cents, nor more than the value of the book.

4th. If a leaf be torn out, or so defaced or mutilated that it cannot be read, or if any thing be written in the volume, or any other injury done to it, which renders it unfit for general circulation, the trustees will consider it a destruction of the book, and shall impose a fine accordingly, as above provided in case of loss of a book.

5th. When a book shall have been detained seven days beyond the twenty days allowed by these regulations, the librarian shall give notice to the borrower to return the same within three days. If not returned at that time, the trustees may consider the book lost or destroyed, and may impose a fine for its destruction in addition to the fines for its detention.

VII. But the imposition of a fine for the loss or destruction of a book, shall not prevent the trustees from recovering such book in an action of replevin, unless such fine shall have been paid.

VIII. When, in the opinion of the librarian, any fine has been incurred by any person under these regulations, he may refuse to deliver any book to the party liable to such fine, until the decision of the trustees upon such liability, be had.

IX. Previous to the imposition of any fine, two days' written or verbal notice is to be given by any trustee, or the librarian, or any other person authorized by either of them, to the person charged, to show cause why he should

not be fined for the alleged offence or neglect; and if within that time good cause be not shown, the trustees shall impose the fine herein prescribed. No other excuse for an extraordinary injury to a book, that is for such an injury as would not be occasioned by its ordinary use, should be received, but the fact that the book was as much injured when it was taken out by the person charged, as it was when he returned it. As such loss must fall on some one, it is more just that it should be borne by the party whose duty it was to take care of the volume, than by the district. Negligence can only be prevented, and disputes can only be avoided by the adoption of this rule. Subject to these general principles the imposition of all, or any of these fines, is *discretionary* with the trustees, and they should ordinarily be imposed only for *wilful* or *culpably negligent* injuries to books, or where the district actually sustains a loss, or serious injury. Reasonable excuses for the detention of the books beyond the twenty days, should in all cases be received.

X. It is the special duty of the librarian to give notice to the borrower of a book that shall be returned injured, to show cause why he should not be fined. Such notice may be given to the agent of the borrower who returns the book; and it should always be given at the time the book is returned.

XI. The librarian is to inform the trustees of every notice given by him to show cause against the imposition of a fine; and they shall assemble at the time and place appointed by him, or by any notice given by them, or any one of them; and shall hear the charge and defence. They are to keep a book of minutes, in which every fine imposed by them, and the cause, shall be entered and signed by them, or the major part of them. Such original minutes, or a copy certified by them, or the major part of them, or by the clerk of the district, shall be conclusive evidence of the fact that a fine was imposed as stated in such minutes, according to these regulations.

XII. It shall be the duty of trustees to prosecute promptly for the collection of all fines imposed by them. Fines collected for the detention of books, or for injuries to them, are to be applied to defray the expense of repair

ing the books in the library. Fines collected for the loss or destruction of any book, or of a set or series of books, shall be applied to the purchase of the same or other suitable books.

XIII. These regulations being declared by law "obligatory upon all persons and officers having charge of such libraries, or using or possessing any of the books thereof," it is expedient that they should be made known to every borrower of a book. And for that purpose a printed copy is to be affixed conspicuously on the case containing any library, or on one of such cases, if there be several: and the librarian is to call the attention to them of every person, on the first occasion of his taking out a book.

The offices of trustee and librarian are incompatible; and cannot be held by the same person.

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## CHAPTER VIII.

### TEACHERS.

By § 11, of the act of 1841, (No. 122,) the trustees of each district are to provide a book, in which the teachers are to enter the names of the scholars attending school, and the number of days they shall have *respectively* attended, and also the number of times the school has been inspected by the deputy superintendent and the town inspectors. This list is to be verified by the oath of the teacher.

The strict and faithful performance of this duty is highly important, not only to the district but to the teacher. It is the basis upon which the rate-bills are to be made out, and by which the sums to be paid by parents are to be ascertained. Error in these lists will therefore produce injustice. It has been held by the department of common schools that the teacher is not entitled to call on the trustees for his wages, unless he furnishes them an accurate list of scholars, on which they can prepare the rate-bills, and issue their warrant. Hence the teacher has a direct personal interest in the preservation of an accurate list, which he can verify by his oath.

For the purpose of executing this provision, the teacher will write the following heading or caption, in his book, at the commencement of each quarter :

A list of the scholars who attended the district school of district No.            in the town of            during the quarter or term commencing the    day of            , 184 , and the number of days they respectively attended the same.

Time of entrance.	Name of Scholar.	No of days' attendance.
Nov. 1, 1841,.....	John Thompson, .....	Seventy-eight, 78 days.
Dec. 1, " .....	Peter Barker,.....	Forty-three, 43 "
Dec. 4, " .....	James Thomas,.....	Forty, 40 "



At the time any pupil enters the school, the teacher should immediately insert the date and the name of the scholar. At the close of the quarter, the whole number of days that each pupil attended is to be ascertained from the check roll, and entered in the third column, in words at length, and also in figures, as in the above form.

Each teacher at the commencement of every quarter, should provide a *day or check roll*, in which the name of every scholar is to be entered. It should be ruled so as to give six columns, corresponding to the number of days in the week. The number attending should be ascertained each half day, and pencil marks made in the column for the day opposite to the name of each one present. At the end of the week, the number of days each pupil has attended during the week, should be summed up and entered on the weekly roll. Each half day's attendance should be noted; and two half days should be reckoned as one day. The pencil marks on the day roll may be obliterated, so that the same roll may be used during the quarter. The weekly roll should be formed in the same manner, so as to contain the names of the pupils, and thirteen columns ruled, corresponding to the number of weeks in the quarter. In each of these columns is to be entered the result of the daily check roll for each week, in the following form:

*Weekly Roll.*

Attendance of pupils in district school of district No.

Names of pupils.	1st week.	2d week.	3d week.	4th week.	5th week.
John Thomson, .....	6 days.	4 days.	5 days.	6 days.	5½ days

At the end of the quarter the teacher will sum up the attendances of each pupil from this weekly roll, and enter the result in the book provided by the trustees as before mentioned, showing the whole number of days each scholar has attended during the quarter.

At the end of the list the following oath or affirmation is to be written:

A. B. being duly sworn (or affirmed) deposes that the foregoing is a true and accurate list of the names of the scholars who attended the district school of district No.        in the town of        during the quarter commencing the        day of        184 , and the number of days they respectively attended.

This oath or affirmation is to be signed by the teacher, and certified by a justice of the peace, commissioner of deeds, judge of any court of record, or county clerk, to have been taken before him.

The teachers are also required to make an abstract of the lists for the use of the trustees, at the end of each quarter; showing the results exhibited under the following heads, and in the following form :

Abstract of the attendances of scholars at the district school of  
 District No.            in the town of            during the quarter  
 commencing the       day of            184  
 Of scholars who attended less than two months, there were  
     "                      "       two months and less than four,  
     "                      "       four months and less than six,  
     "                      "       six months and less than eight,  
     "                      "       eight months and less than ten,  
     "                      "       ten months and less than twelve,  
     "                      "       twelve months.

This abstract is to be signed by the teacher and delivered to the trustees.

In another part of the book provided by the trustees, and towards the end of it, the teacher will enter the days on which the school has been inspected, in the form of a memorandum, as follows :

*Account of Inspections of the School in District No.*

November 1, 1841. The school was inspected by the County Superintendent, and by *William Jones*, and *Amos Johnson*, two of the town inspectors.

December 1, 1841. The school was inspected by the County Superintendent alone.

This entry need not be verified, as heretofore required.

Any inhabitant of a district may pay his proportion of the teacher's wages to such teacher, at any time before the rate-bill and warrant are actually made out and delivered to the collector; and whenever any such payment is made, the teacher should give notice of the fact of such payment and its amount, to the trustees, to enable the latter to credit the person so paying on the rate-bill.

Trustees cannot transfer to a teacher the power of enforcing the collection of his wages.

Teachers cannot demand payment of their wages until the collector has had thirty days to collect them.—*Com. School Dec.* 101.

A teacher may employ necessary means of correction to maintain order; but he should not dismiss a scholar from school without consultation with the trustees.—*Id.* 145.

If a teacher's certificate is annulled, the trustees are at liberty to dismiss him and to rescind their contract with him. But if they continue him in school, after notice that his certificate has been annulled, it will be regarded as such a continuance of the contract, that they will not be allowed at a subsequent period to dispute it.—*Id.* 212.

Contracts by trustees for teachers' wages are binding upon their successors in office.—*Id.* 191, 282.

Teachers, though not, strictly speaking, *inhabitants* of the district where they are located, should be allowed to participate in all the privileges and benefits of the district libraries.—*Per SPENCER, Sup't, 1841.*

The convenience and accommodation of many, if not of most of the inhabitants of the several districts, would be essentially promoted by placing the charge of the library, temporarily with the teacher, during the term of his or her employment, and depositing it in some convenient and safe place in the school-house. This arrangement can only be carried into effect by the concurrence of the trustees and librarian, and under their supervision. Generally, the teacher, not being an inhabitant of the district, cannot be chosen librarian. But where the trustees and librarian have sufficient confidence in the teacher and in the safety of the books, when left at the school-house, they will find this arrangement in many respects conducive to the convenience of the district.

The authority of the teacher to punish his scholars, extends to acts done in the school-room, or play-ground, only; and he has no legal right to punish for improper or disorderly conduct elsewhere.—*Per SPENCER, Sup't.*

Teachers may open and close their schools with prayer, and the reading of the Scriptures, accompanied with suitable remarks; taking care to avoid all discussion of controverted points, or sectarian dogmas.

Where a teacher is dismissed by the trustees for good cause, he can collect his wages only up to the period of his dismissal.

The teacher of a school has necessarily the government of it; and he may prescribe the rules and principles on which such government will be conducted. The trustees should not interfere with the discipline of the school except on complaint of misconduct on the part of the teacher; and they should then invariably sustain such teacher, unless his conduct has been grossly wrong.—*Per SPENCER, Sup't.*

Where a teacher agrees to collect his own wages he will be concluded by such an agreement, and will not afterwards be permitted to call upon the trustees to enforce the collection of any part of such bill by rate-bill.—*Id.*

Where a teacher contracts with the trustees of a district to teach their school for a given sum *per scholar*, he is entitled to *charge the trustees* that sum for each scholar attending the school during the quarter, without reference to the number of days' attendance; provided such scholar has not been detained from school during the greater portion of the term, by illness or unavoidable casualty. The trustees, however, must graduate their *rate-bill against the inhabitants* sending to school, by the number of days' attendance, to be ascertained from the verified list of the teacher.—*Per YOUNG, Sup't.*

Schools may be kept on *Sunday* for the benefit of those persons who observe *Saturday* as holy time; and the teacher must be paid for that day by those who send to school.—*Com. School Dec. 138.*

The *holidays* on which a teacher may dismiss his school are such as it is customary to observe, either throughout the country or in particular localities; among which may be enumerated the *fourth of July*, Thanksgiving, Christmas, New Year's, &c.—*Id. 139.*

The teacher may, also, unless restrained by special contract to the contrary, dismiss his school on the afternoon of each Saturday, or the whole of each alternate Saturday, according to the particular custom of the district in that respect, or his own convenience and that of the inhabitants.—*Id.*

The practice of inflicting *corporal punishment* upon scholars, *in any case whatever*, has no sanction but usage. The teacher is responsible for maintaining good order, and he must be the judge of the degree and nature of the punishment required where his authority is set at defiance. At the same time he is liable to the party injured for any abuse of a prerogative *which is wholly derived from custom*.—Per JOHN A. DIX, Sup't, *Common School Decisions*, 102.

## CHAPTER IX.

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### COUNTY SUPERINTENDENTS.

By the 36th section of the act of 1841, in relation to common schools, (No. 171,) the board of supervisors of each county in the state is required to appoint a County Superintendent of common schools; and by § 4, of the act of 1843, "The board of supervisors of any county, in which there shall be more than one hundred and fifty school districts, may appoint two County Superintendents, or one, in their discretion; and at all such appointments hereafter made, the board shall divide the county into two convenient districts, designating the person appointed for each district respectively, when there shall be two appointed; but no share of the public money shall hereafter be apportioned to any county in which a County Superintendent shall not have been appointed, unless by order of the Superintendent of common schools."

Such County Superintendents hold their offices respectively for the term of two years, subject to removal by the board of supervisors, on complaint, and for causes to be stated, and by the Superintendent of Common Schools, whenever, in his judgment, sufficient cause for such removal exists; and the vacancy thereby occasioned is to be supplied by appointment under his hand and official seal, until the next meeting of the board of supervisors of the county in which such vacancy exists. A copy of the order making such removal, specifying the causes thereof, is required to be forwarded to the clerk of the board of supervisors, to be by him laid before the board at their first meeting.

The powers and duties of the County Superintendent are:

1. To visit and examine all the schools and school districts committed to his charge as often in each year as

may be practicable, having reference to the number of such districts; to notify the Town Superintendent of common schools of the town of the time appointed to visit the schools in such town, and to invite him to visit, with him, the said schools, and at any time to inquire into all matters relating to the government, course of instruction, books, studies, discipline and conduct of such schools, and the condition of the school-houses, and of the districts generally; and to advise and counsel with the trustees and other officers of school districts in relation to their duties, particularly in relation to the erection of school-houses, and to recommend to such trustees, and the teachers employed by them, the proper studies, discipline and conduct of the schools, the course of instruction to be pursued, and the books of elementary instruction to be used therein :

2. To examine persons offering themselves as candidates for teachers of common schools, and to grant them certificates of qualification, in such form as shall be prescribed by the Superintendent; which certificates shall be evidence of the qualification of such teachers, in every town and district of the county for which such County Superintendent shall be appointed :

3. By and with the consent of the Town Superintendent of any town to annul any certificate granted to any teacher in said town, whenever such teacher shall be found deficient :

4. And generally, by all the means in his power, to promote sound education, elevate the character and qualifications of teachers, improve the means of instruction, and advance the interests of the schools committed to his charge.

By § 7, of the act of 1843, it is provided that "all appeals now authorized by law to be brought to the Superintendent of Common Schools, shall first be presented to the County Superintendent of the county, or section of county in which the subject matter of such appeal shall have originated, in the same manner as now provided in relation to appeals to the Superintendent of Common Schools, who is hereby authorized and required to examine and decide the same; and where the district in which the subject matter of such appeal shall have arisen, shall be a

joint district, embracing portions of two counties or towns, such appeal shall be brought to the County Superintendent of the county or section in which the school-house of such district shall be located. The decision of such County Superintendent shall be final and conclusive, unless appealed from to the Superintendent of Common Schools within fifteen days after the service of a copy of such decision upon the parties respectively. And an appeal from the decision of the County Superintendent to the Superintendent of Common Schools may be made in fifteen days, as now provided by law in relation to appeals from districts, in such manner and under such regulations as shall be prescribed by the Superintendent of Common Schools."

By § 8, "certificates of qualification hereafter granted to applicants by County Superintendents, shall either be general, in the form heretofore prescribed under the authority of law, in which case they shall be valid throughout the district of the County Superintendent granting the certificate, until annulled; or special, in which case the town in which such applicant shall be authorized to teach shall be specified; and such certificate shall be in force for a term not exceeding one year."

By § 9, "the consent of the Town Superintendent shall not be requisite to the annulling of any certificate of qualification granted by any County Superintendent."

By § 37 of the act of 1841, (No. 172,) "any Superintendent may at any time resign his office to the clerk of the county for which he was appointed; and in case of a vacancy in the office from any cause, such clerk may fill the vacancy, until the next meeting of the board of supervisors."

By § 38, (No. 173,) "the County Superintendents shall be subject to such general rules and regulations as the Superintendent may from time to time prescribe, and appeals from their acts and decisions may be made to him in the same manner and with the like effect as in cases now provided by law, and they shall make reports annually to the Superintendent at such times as shall be appointed by him, which shall be the same as are now required to be made by county clerks, with such additional information as he shall require; and for that pur-



pose, they shall have access to the reports of the Town Superintendents filed with the county clerk, without charge; and the county clerks shall not be required to make returns in those counties where such Superintendents may be appointed.

By § 39, (No, 174,) "the County Superintendents shall each be allowed two dollars for each day necessarily spent in the discharge of their duties; but the whole amount of compensation in any one year, shall not exceed five hundred dollars for any County Superintendent, and the amount shall be audited and certified by the board of supervisors of the county. One equal moiety of said amount shall be a county charge upon the counties respectively for which they shall be appointed, and shall be raised and paid in the same manner as other county charges. The remaining moiety shall be paid by the treasurer on the warrant of the comptroller, out of the annual surplus now appropriated to the capital of the common school fund, arising from the income of the moneys deposited by the United States."

By § 6 of the act of 1843, the moiety of the compensation of the County Superintendent of any county payable by the state, shall not hereafter be paid, except upon the production to the comptroller of the certificate of the Superintendent of Common Schools, that the County Superintendent has conformed to the instructions of the department and also made the annual report required by law."

By § 11, "The board of supervisors of the several counties, may audit and allow the accounts of the County Superintendents of their respective counties, rendered under oath, for postage on their necessary official communications with the inhabitants and officers of the several districts within their jurisdiction."

The object of the legislature in requiring the appointment of County Superintendents for the several counties of the state, may be expressed in the terms of the recommendation of that measure—that they should personally visit the schools, give counsel and instruction as to their management, discover errors and suggest the proper remedy, animate the exertions of teachers, trustees and parents, and impart vigor to the whole system. All writers on public education concur in the decided opinion that ef-

fectual inspection and supervision are more essential to the proper management of schools, and more indispensable to their improvement than any, or all other agencies combined. This high duty will now devolve chiefly on the County Superintendents. If they realize its vast importance, and bring to its discharge a firm resolution to regard only the great interests confided to their hands, they will become the honored means of extending and sustaining a cause, on which depends the happiness and prosperity of the people, and the perpetuity of our institutions.

Their duties are so connected with the interests of others, and are so liable at times to conflict with the opinions and prejudices of those with whom they will associate, that the greatest prudence will be required to prevent unfavorable impressions at the commencement of a system so new and by many but imperfectly understood. The deputies should bear in mind, that their business is chiefly *advisory*. With this fact impressed on their minds, they will, of course avoid every appearance of dictation or arrogance. As their usefulness will depend mainly on the influence they shall be able to exercise upon the officers and teachers of schools, and upon parents and the inhabitants of districts generally, they will endeavor to deserve that influence by their deportment, and studiously to avoid every thing which may impair it. Hence it will be indispensable that they should abstain wholly and absolutely from all interference in any local divisions, or in any questions by which the community in any town or district may be agitated; and although they cannot be expected to abandon their political sentiments, yet it is obvious that any participation in measures to promote the success of any political party, will not only diminish their influence and impair their usefulness, by exciting suspicion of the objects of their movements and measures, but will expose the office they hold to a vindictive hostility that will not cease until it is abolished. The intelligence of our people will not tolerate the idea of the agents of public instruction becoming the emissaries of partisan management.

The subordination of pupils, the good order of the schools, and the success of the whole system, depend upon

the harmonious co-operation of all the officers charged with the performance of duties under it, and upon the maintenance of their authority in the respective spheres of their duty. The teacher must be respected by his scholars; and to insure this, they must be impressed with a conviction of his authority to govern them. The trustees of districts, and Town Superintendents, are to be sustained and their authority respected in their appropriate departments, so as to insure the greatest degree of efficiency. Organization, and a central communication, will accomplish much in giving uniformity and regularity to the system; but after all, more is to be done by local efforts, and public sentiment, especially in providing competent teachers and in filling the schools. It should, then, be the great object of the County Superintendents to encourage and sustain these local efforts—to guide and enlighten the public opinion—and to interest parents in those institutions which are so seriously to affect the moral and intellectual character of their offspring.

To attain these purposes, it will be advisable for the County Superintendents to avail themselves of every proper opportunity to deliver familiar addresses in public, upon the importance of our primary schools, the necessity of attention to them, and the means of promoting their success. In their present condition, the points that seem to require the most attention are, *First*, The employment of good teachers; *Second*, The attendance of all the children in the schools during the whole time they are open; and, *Third*, The elevation of the standard of education.

They should impress upon parents, that cheap teachers cannot be good teachers, until all the principles of human action are reversed, and until men cease to pursue those employments which render the best returns for their talents and industry. From the employment of good teachers, other results will necessarily follow; particularly a more extended range and a higher degree of instruction. These will, inevitably, fill the schools, by drawing pupils from those private and select establishments which are founded chiefly to supply the deficiencies of the common schools, and which ordinarily operate so much to their injury.

The power of removal from office vested in the Super-

independent, will, it can scarcely be necessary to say, never be exercised unless upon the most pressing exigency, and in cases of flagrant neglect, violation or perversion of duty, where the action of the appointing power cannot be had in season to avert the evil. While the Superintendent will, in no case, undertake to review, or in any manner to control, by the exercise of this power, the designation by the respective boards of the individual deemed most suitable to discharge the duties of the office of County Superintendent, he will take care that the confidence reposed in such individual is neither abused nor betrayed: and especially that the great interests of education, and the salutary provisions of the legislature for their advancement are not rendered obnoxious to the people in consequence of the incompetency or unfaithfulness of the agent selected to vindicate the one and enforce the other.

The duties of the County Superintendents may be arranged under the following general heads:

- I. Visiting the districts, and inspecting the schools:
- II. Advising and counselling with trustees and other officers, and with teachers:
- III. Reports to the Superintendent:
- IV. Licensing teachers, and annulling their certificates:
- V. The hearing and decision of appeals:
- VI. Miscellaneous duties.

#### I. VISITING THE DISTRICTS AND INSPECTING THE SCHOOLS

1. The statute makes it the duty of every County Superintendent "to visit and examine all the schools, and school districts committed to his charge, as often in each year as may be practicable, having reference to the number of such districts." This language is understood to mean that the districts and schools are to be visited as often as their number will permit, and that the time of the County Superintendent is to be devoted to that employment.

The appointment of two County Superintendents wherever the number of districts in any county shall exceed one hundred and fifty, is strongly recommended. No one person can do full justice in the supervision of a

greater number of schools during the limited periods for which they are annually kept open ; and unless the supervision is thorough in all respects—unless the County Superintendent has made himself familiarly and intimately acquainted with the resources, administration and capabilities of every one of the schools which he visits—unless he has been enabled to detect and remove by judicious counsel and friendly advice, every material obstacle to the prosperity and success of the school—to develop all its advantages and to give to it the means for attaining to an equality with those of the highest grade, the great object for which his office was created, has not been accomplished. It is on every account desirable that the County Superintendent, should, once at least, in every year, and oftener if practicable, visit every district within his jurisdiction, thoroughly inspect its school, satisfactorily ascertain the qualifications of the teacher and the facilities for instruction at his command, the condition of the school-house and its appurtenances, the condition and prospects of the library, the degree of interest manifested towards the school on the part of the inhabitants, and all those other particulars which go to form the character of the school and to determine the amount of mental and moral influence which it is to exercise on its inmates. But if, from the number of districts which it is made his duty to visit, he cannot accomplish this amount of labor, and at the same time faithfully discharge the additional obligations devolved upon him by the existing law, it is far better that he should restrict his visitations to a number to which he can do full justice, than that he should nominally conform to the strict requirement of his instructions, by making a flying visit to all the districts, without leaving any abiding, permanent impression of utility upon any. Let what is accomplished, be accomplished thoroughly ; what is done, be well done ; and the temporary inconvenience which any one or more districts may sustain from a failure on the part of the County Superintendent to reach them in any given period, will be more than counterbalanced by the amount of good effected when he does appear among them. All embarrassments arising from this source, may however, in most cases, easily be

averted by the appointment of two Superintendents under the section referred to.

2. The act requires the County Superintendents to notify the Town Superintendents of the time appointed to visit the schools, and to invite their attendance. The Superintendents will also give notice to the trustees of the districts, of the time when their schools will be visited. To enable them to comply with these provisions they should make a previous arrangement of their visits, in reference to the means of travelling, so as to reach as many districts as possible in the shortest time; and for this purpose they will find it necessary to divide their counties into sections. Having fixed the time for visiting the schools in one or more sections, they should at once give ample notice, by transmitting a copy of their arrangement to the Town Superintendents of the town embraced within it, and request them to communicate to the trustees of districts information of the time appointed for inspecting their schools, or in some other way give publicity to their plans. It is presumed that publishers of newspapers would cheerfully insert such notices gratuitously. They have ever been found ready to render their assistance to disseminate information calculated to promote the interests of the common schools.

By a regulation of the department, the respective town clerks are required to furnish the Superintendents with the names of the Town Superintendents of their towns.

The inhabitants of the district, and particularly parents, who have children attending the school, should be invited to be present at the inspection by the Superintendent: and trustees of districts are hereby required, whenever they receive information of an intended visit, to communicate it as generally as possible, to the inhabitants. Their attendance will afford an opportunity for the public addresses of the Superintendents, before suggested.

3. *Examination of the Schools.*—Preparatory to this, the Superintendent should ascertain from the teacher the number of classes, the studies pursued by each, the routine of the school, the successive exercises of each class during each hour of the day, the play spells allowed, &c. and thus obtain a general knowledge of the school, which will be found greatly to facilitate his subsequent

duties. Every Superintendent is enjoined to call for and examine the list of scholars in the book which the statute requires the teacher to keep, in order that he may see whether the names are correctly and neatly entered. He will also examine the *day roll* and the *weekly roll*, which by the preceding regulations, teachers are directed to preserve, and will ascertain by the proper inquiries, whether they are exact in entering all who are present.

The Superintendent will then hear each class recite the ordinary lesson of the day. It will then be examined on the subjects of study. Generally it will be better to allow the teacher to conduct the exercises and examinations, as the pupils will be the less likely to be intimidated, and an opportunity will be given of judging of the qualifications of the instructors.

To enable him to compare the school with itself at another time, and with other schools, and to comply with the regulations hereinafter contained respecting the annual reports, the Superintendent should keep notes of his observations, and of the information he obtains on all the subjects on which he is required to report; and he should particularly note any peculiarities which seem to require notice in the mode of instruction, in the government and discipline of the school, and the appearance of the pupils in respect to their cleanliness of person and neatness of apparel.

4. The Superintendent will also examine the condition of the school-house and its appurtenances; whether the room has the means of ventilation, by lowering an upper sash, or otherwise; whether it is sufficiently tight to protect the children from currents of air, and to keep them warm, in winter; whether there is a supply of good water; the condition of privies, and whether they are provided for both sexes; and the accommodations for physical exercise. Their attention will be given to the arrangements of the school-room; whether the seats and desks are placed most conveniently for the pupils and teachers, and particularly whether backs are provided for the seats—a circumstance very important to the comfort and health of the children. They should also inquire whether blackboards and alphabetical cards, or any apparatus to assist learners, are furnished.

The preceding topics of inquiry are suggested, rather as hints of the most important, than intended to embrace the whole field. The judgment and observation of the Superintendents will discover many other subjects deserving their attention.

5. The Superintendents will also inquire into the condition of the district, in relation to its ability to maintain a school; whether its interest and the convenience of its inhabitants can be promoted by any alterations, without injury to others; and they will suggest whatever occurs to them, to the trustees.

In case of any gross deficiency or inconvenience, which the proper officers refuse or decline to remedy, the Superintendents will note it in their annual reports to the department.

6. They will also examine the district library, and obtain the information respecting it, hereinafter required to be stated in their reports.

#### II. ADVISING AND CONSULTING WITH THE TRUSTEES AND OTHER OFFICERS OF SCHOOL DISTRICTS.

This is made a special duty of the Superintendents by the act; they are to advise the trustees and other officers in relation to all their duties; and to recommend to them and the teachers the proper studies, discipline and conduct of the school, the course of instruction to be pursued, and the elementary books to be used. The notes which the Superintendents make during their inspection of the school, will much facilitate the discharge of this portion of their duty.

1. In regard to *proper studies*: if they find any important one omitted, or that pupils are hastened on without thoroughly understanding the preliminary or previous branches, they should point out the error and its consequences. For instance, they should urge the absolute necessity of children being thoroughly and frequently exercised in spelling, so that they make no mistakes in any words in common use. Without this it is impossible for them to be good readers. And in the exercise of reading they should insist on clear and distinct articulation, more than any other quality; and generally the ability of the Superintendent is relied upon to detect bad



habits in the manner of reciting, erroneous ideas of the subject, and superficial acquirements.

2. The *discipline* and *conduct* of the school. It can scarcely be necessary to remark on the importance of order and system in the schools, not only to enable the pupils to learn any thing, but to give them those habits of regularity so essential in the formation of character. Punctuality of attendance, as well as its steady continuance, should be enforced. Parents should be told how much their children lose, to what inconvenience they expose the teacher, and what disorder they bring upon the whole school, by not insisting upon the scholars being punctually at the school-room at the appointed hour; and above all, they should be warned of the injurious consequences of allowing their children to be absent from school during the term. By being indulged in absences they lose the connection of their studies, probably fall behind their class, become discouraged, and then seek every pretext to play the truant. The habit of irregularity and insubordination thus acquired will be apt to mark their character through life. Trustees should be informed that the omission of parents to require the regular and punctual attendance of their children will justify their exclusion, on account of the effect of such irregularity upon the other pupils.

The Superintendents should also observe whether the teachers are careful to preserve the respect of their pupils, not only by maintaining their authority, but by a becoming deportment, both in the school-room and out of it.

3. With regard to the *course of instruction*, the advice of the Superintendents will often be of great value. The usual order has been found by long experience to be the best, viz: the alphabet, spelling, reading with definitions, arithmetic, geography, history and grammar. No child should be put to any study beyond his capacity, or for which he is not already prepared. English grammar particularly, demands so much exercise of the intellect, that it ought to be delayed until the pupil has acquired considerable strength of mind.

4. *The books of elementary instruction*.—It is believed that there are none now in use in our schools that are very defective; and the difference between them is so

slight, that the gain to the scholar will not compensate for the heavy expense to the parent, caused by the substitution of new books with every new teacher; and the capriciousness of change which some are apt to indulge on this subject, cannot be too strongly or decidedly resisted. Trustees of districts should look to this matter when they engage teachers.

One consequence of this practice is, the great variety of text books on the same subject, acknowledged by all to be one of the greatest evils which afflicts our schools. It compels the teacher to divide the pupils into as many classes as there are kinds of books, so that the time which might have been devoted to a careful and deliberate hearing of a class of ten or twelve, where all could have improved by the corrections and observations of the instructor, is almost wasted in the hurried recitations of ten or a dozen pupils in separate classes; while in large schools, some must be wholly neglected. Wherever the Superintendents find this difficulty existing, they should not fail to point out its injurious consequences, and to urge a remedy by the adoption of uniform text books as speedily as possible. To accomplish this, an earnest and systematic effort should be made, under the auspices of the Town and County Superintendents, to relieve our institutions of elementary instruction from the serious embarrassments resulting from the diversity and constant change of text books. The several County Superintendents are therefore enjoined by the department, to avail themselves of the earliest practicable opportunity to cause an uniform series of text books, embracing all the elementary works ordinarily used in the common schools to be adopted in each of the districts subject to their supervision, under the direction and with the consent of the trustees; and when so adopted, not to be changed for the term of three years. Whenever such uniformity can be extended throughout all the districts of the town, and throughout all the towns of the county, it is very desirable that such extension should be made; but from the great diversity of views in relation to the relative merit of different works, the progress of this extension must necessarily be slow. The foundations may, however, be laid by the attainment of uniformity in the respective dis-

tricts, for an ultimate harmony of views and concert of action on a wider theatre.

5. *The erection of School-Houses.*—The statute has enjoined upon the Superintendents particular attention to this subject. Whenever they learn that the building of a school-house is contemplated, they should advise with the trustees respecting its plan. He must be a superficial observer, who has not perceived how much the health of pupils, the order and discipline of a school, and the convenience of the teacher, depend upon the arrangements of the school-room. This is not the place to state the best models. Information upon that point, collected with great care from Europe and America, has already been given, and will continue to be furnished in the District School Journal. Whenever repairs are about to be made to school-houses, the Superintendents should avail themselves of the occasion to recommend such improvements as may be desirable.

6. In their consultations with trustees and teachers, the Superintendents should be especially careful to communicate their suggestions in a kind and friendly spirit, as the most likely means of success, and as the only certain mode of preserving those harmonious relations, which are essential to their own happiness as well as usefulness; and whenever they observe any thing in the mode of instruction, in the government or discipline of the school, or in any other point, which, in their judgment, requires correction, they will make it a point to intimate their views to the teacher *in private*, and never, on any occasion, suffer themselves to find fault with him in the presence of his pupils. Children cannot discriminate, and they will feel themselves at liberty to blame, when the example has been set by others. The authority of the teacher should be preserved entire while he remains. If his conduct is worthy of public censure he should be at once dismissed rather than be retained to become an object of the contempt of his scholars.

### III. REPORTS TO THE SUPERINTENDENT.

1. *The time when they are to be made.*—By § 38, of the act of 1841, (No. 173,) the County Superintendents are required annually to make reports to the Superintendent

at such times as shall be appointed by him. The Town Superintendents of common schools are required to file their reports with the county clerk, on or before the first day of August in each year. The law made it the duty of the county clerks to transmit certified copies of all such reports to the Superintendent by the first day of October in every year. This duty is now to be performed by the County Superintendents, who, for that purpose, are to have access to the reports filed in the clerk's offices, without charge. Although the time thus fixed for transmitting the reports to the Superintendent is longer than is necessary, in many counties, yet for the purpose of giving ample opportunity to render the returns full and accurate, the same time is appointed for the County Superintendents to make their reports; but it is required that they shall be made and deposited in the post-office in season to reach the office of the Secretary of State *by the first day of October* in each year. This is essential to enable the Superintendent to prepare his annual report to the legislature, for presentation at the proper period.

2. *Their contents.*—The reports are required by the statute to be the same as those now made by county clerks, with such additional information as the Superintendent shall require. They will contain:

1. A statement of the whole number of towns and cities in the county, distinguishing those from which the necessary reports have been made, and those from which none have been received:

2. A true and accurate abstract of all the reports filed with the county clerk during the year, or since the preceding annual report, by the Town Superintendents of common schools of the several towns, certified by the County Superintendents respectively, and arranged according to the towns, in which the results are carried out in proper columns, in the manner in which they are presented in table A. in the appendix to the annual report of the Superintendent to the legislature. This is required in order that the County Superintendents may see whether the footings in the reports of the Town Superintendents are correct; and if any errors are discovered, to have them corrected. The several columns are to be footed, so as to exhibit an abstract of the reports for the whole county.

In this abstract the County Superintendents are required to state particularly the whole number of organized districts in the county, and where any of them consist of parts taken from adjoining counties, they will specify those in which the school-house stands in their county, so that the exact number of districts in the county shall be ascertained and reported.

3. They will also report the number of district schools visited by them during the year, and the number of times each school has been so visited, specifying the number when they were accompanied by the town inspectors or any of them. They will state the condition of the schools under the following heads:

(1.) *Teachers.* The number of males and their ages, viz: the number under 18 years of age; those over 18 and under 21; over 21 and under 25; over 25 and under 30; over 30 and under 40; over 40 and under 50; and over 50. The number of females and their ages in the same manner. The length of time those of different sexes have taught school, viz: the number of males who have taught less than one year; the number who have taught one year and less than two; two years and less than four; four years and less than six; more than six years; and the same in respect to females. They will also state the monthly compensation of the teachers, specifying how many receive the different sums that may be found to be paid; thus, the number receiving \$8.00 per month; the number receiving \$10.00, &c. and arranging them according to the sex of the teachers. They will ascertain from the teachers respectively the different portions of time they have kept any one school, and will communicate the result in a table, showing how many teachers have kept the same school one year, two years, three years, four years, five years, more than five and less than ten, and more than ten years.

(2.) *The course and extent of study pursued.* Under this head the report will state the following particulars:

Number of pupils in attendance at each time of visitation.

Number of classes in the school.

Number of pupils learning the alphabet

Number of pupils learning to spell, without being able to read.

Number of pupils learning to read.

Number of pupils learning to define words

Number of pupils studying arithmetic.

Number of pupils studying geography.

Number of pupils studying History of the United States.

Number of pupils studying other history.

Number of pupils studying grammar.

Number of pupils studying use of globes.

Number of pupils engaged in other studies, specifying them and the number pursuing each study.

(3.) They are to report the results of their observations;

1st. In relation to the qualifications of the teachers generally.

2d. In relation to the mode of teaching adopted in the schools.

3d. In relation to their government and discipline.

And they will notice gross irregularities or imperfections.

4. *Condition of the School-Houses.* They will state the number built of stone, those of brick, of wood framed, and of logs; also the number having but one room; those having two rooms in which schools are kept, and those having three or more rooms; the number in good repair, and the number in a bad or decaying condition. They will also state the number which have no privies, those which have one, and those which have two or more.

5. *Condition of the district.*—Any information which may be obtained under the enquiries already suggested, and which may be deemed useful, or in respect to which any beneficial action of the department can be had, will be stated in the report.

6. *The state of the district libraries.*—They are required to examine the library of each district, and ascertain the whole number of books purchased, and on hand, and their condition; and the average number in circulation, i. e. the proportion usually kept out. They will state in their reports, the whole number of books in

all the district libraries in the county, and the average of circulation, obtained from the averages of each district. They will state generally, the condition of the books, as far as seen by them, and the degree of care and attention apparently bestowed in their preservation by the trustees and librarian. If they discover any improper books in the libraries they should suggest to the trustees their removal; and if they find them continued, notwithstanding, they will report the facts to the department.

7. They will also report the whole number of persons to whom they have given certificates of qualification as teachers, during the year, specifying their sexes and ages, viz: those under 18—those over 18 and under 21—over 21 and under 25—over 25 and under 30—over 30 and under 40—over 40 and under 50—and those over 50.

8. It will be perceived that trustees of school districts are required to state in their reports the number of select schools, other than those that are incorporated, within their respective districts, and the average number of pupils attending them. There are such schools in cities and villages, as in Utica, Schenectady, Poughkeepsie and other places, which are not within any school district. As the information desired has a very important bearing upon the common school system, the County Superintendents are required to ascertain the number of such schools and the pupils taught in them during the year, which are kept in such cities and villages and are not included in any school district, and state them in their annual reports. They will be careful not to embrace any that are contained in the reports of the trustees; and to insure accuracy, they will specify the city or village in which the select schools are established. Those that are incorporated will be included in the reports to the Regents of the University.

#### IV. THE LICENSING OF TEACHERS AND ANNULING THEIR CERTIFICATES.

1. *Examining and licensing teachers.*—This authority, it will be perceived, is given by sub. 2 of § 36, of the act of 1941, (No. 171,) and by § 8 of the act of 1843. It being very desirable that *all* the teachers should be licensed by the County Superintendents, so as to secure

competent talent and knowledge, and to produce uniformity in a county; and to afford every reasonable accommodation to those desiring to offer themselves, they should make their arrangements to examine applicants for licenses in the different towns of their county, during their visitations in such towns. For this purpose, they should appoint a particular day and place in each town, and when the town is very large, in different sections of it, when they will be in readiness to examine teachers. Public notice of such appointment should be given. It is probable that this will bring together several applicants, and thus diminish the labors of the Superintendent: particularly as a county license by him will obviate the necessity of yearly examinations, as well as prevent the necessity of a re-examination during the year. In making such examinations they should confine themselves to the subjects specified in the statute in relation to inspectors, § 46, (No. 57;) and should ascertain the qualifications of the candidates in respect, *first*, to moral character; *second*, learning; and *third*, ability.

*First*.—They should require testimonials of *moral character*, from those acquainted with the applicant, which should be either verbal or written, and the latter is to be preferred. This is not a matter to be neglected or slighted. Those to whom the training of our youth is to be committed, should possess such a character as will inspire confidence in the rectitude of their principles and the propriety of their conduct: and it is to be understood as a positive regulation of the department, that no license is to be granted, without entire satisfaction on this point. This must be understood to relate to *moral character*—to the reputation of the applicants as good citizens, free from the reproach of crime or immoral conduct. It does not extend to their *belief*, religious or political; but it may apply to their manner of expressing such belief or maintaining it. If that manner is, in itself, boisterous and disorderly, intemperate and offensive, it may well be supposed to indicate ungoverned passions, or want of sound principles of conduct, which would render its possessor obnoxious to the inhabitants of the district, and unfit for the sacred duties of a teacher of youth, who should instruct as well by example as by precept.



*Second.*—As to the *learning* of the applicants. It should appear from their examination that they are good spellers, distinct and accurate readers, write good and plain hands, can make pens, and are well versed,

1st. In the definition of words.

2d. In arithmetic, at least as far as the double rule of three:

3d. In geography, as far as contained in any of the works in ordinary use:

4th. In the history of the United States, of England, and of Europe generally:

5th. In the principles of English grammar: and,

6th. In the use of globes.

*Third.*—The *ability* of the applicants to teach. Mere learning, without the capacity to impart it, would be of no use. The County Superintendents should satisfy themselves, by general inquiries, and particularly by a thorough examination of the applicants respectively, of their qualifications in this respect, of their tact in dealing with children, and especially of their possessing the unwearied patience, and invariable good nature, so necessary to constitute useful teachers of youth.

Having satisfied themselves on these several points, the County Superintendents will grant certificates of qualification, in the following form:

*Form of certificate of qualification to be granted by County Superintendents.*

TO ALL TO WHOM THESE PRESENTS SHALL COME: BE IT KNOWN, That I, \_\_\_\_\_ County Superintendent of common schools for the county of \_\_\_\_\_ having examined A. B. and having ascertained his qualifications in respect to moral character, learning and ability to instruct a common school, Do HEREBY CERTIFY, that he is duly qualified for that service, and accordingly he is hereby LICENSED to teach common schools, in any town and district of the said county, until this certificate shall be annulled according to law. [Or, in the town of \_\_\_\_\_ for one year from the date of this certificate.]

Given under my hand, this \_\_\_\_\_ day of \_\_\_\_\_ in the year one thousand eight hundred and forty \_\_\_\_\_

County Superintendent.

2. *Annulling certificates of teachers.*

1. This can be done in the case of teachers holding a license from the Town Superintendent, only by the County Superintendent, with the consent of the Town Superintendent. But a license granted by him, can be annulled only by him.

By § 9, of the act of 1843, the consent of the Town Superintendent shall not be requisite to the annulling of any certificate of qualification granted by any County Superintendent.

2. Previous notice should be given to the teacher of the allegations against him, when it is proposed to annul his certificate, particularly when the alleged ground is deficiency of moral character; and he should have full opportunity afforded him for defence. The County Superintendent may, at any time, examine any person holding a certificate, to ascertain his qualifications with respect to learning and ability: and a refusal to submit to such examination would be, in itself, sufficient evidence of incompetency to justify the annulling of his certificate.

3. The form of the instrument annulling the certificate may be as follows:

*Form of instrument annulling a certificate.*

To all to whom these presents may come, Whereas, on or about the       day of       184 , a certificate of qualification to teach common schools was granted to A. B. by the [Town Superintendent of the town of       in the county of       .] And whereas, on due examination and enquiry by the County Superintendent of the said county of       and the Town Superintendent of the town of       the said A. B. has been found deficient and unqualified to teach common schools; Know ye therefore, that we, the said County and Town Superintendents do hereby annul and declare void the said certificate of qualification so given to the said A. B.

In witness whereof, we have hereunto set our hands, this  
day of       184 .

*County Supt.*

*Town Sup't.*

4. A duplicate of this instrument should be served on the person whose certificate is annulled, although it will be valid without such service. It is not necessary to give notice of it to the trustees of the district where he may be

employed, to render it effectual; but such notice should promptly be given, to prevent the loss by the district, of its portion of the public moneys, which would ensue from the employment of a teacher not holding a license.

5. The County Superintendents are required at the expiration of every three months to state in a separate report to the department, the names of all persons whose certificates of qualification have been annulled by them, with the cause of such proceeding. In cases where it may be proper, such reports will be published in the District School Journal.

6. They are also required to keep a register of the names of all persons to whom they grant certificates of qualification, with the date of such certificate, and the town in which it was given; and also of the names of all persons whose certificates are annulled by them, with the date of the act and the general reasons therefor.

Their proceedings in relation to the granting or annulling of certificates are subject to appeal to the Superintendent, by any person deeming himself aggrieved.

#### V. APPEALS TO COUNTY SUPERINTENDENTS.

No stronger or more gratifying evidence can be afforded of the approbation with which the legislature regarded the system of county supervision as at present established, than is comprised in the fact of devolving upon the officers charged or to be charged with these functions, the duty and responsibility of deciding in the first instance, upon all appeals heretofore authorized to be preferred to the department. Under this provision, they are not only vested with most important powers in reference to the settlement of the numerous controversies which spring up in the several districts, but enabled to exert a pervading influence of permanent utility as peace-makers, in that extensive class of cases where the paramount interests of education are now too frequently sacrificed to the attainment of a temporary triumph, or the gratification of a domineering, avaricious or selfish spirit. There can be no doubt that the presence and explanations and friendly counsels of one in whom all parties can confide—whose integrity is above suspicion—who comes to them, not with the dictatorial assumption of power, but as one deeply

interested in their welfare and that of their children, and anxious only to restore harmony and peace where harmony and peace are indispensable to the common welfare, will, within the compass of a very short period, materially reduce the number of vexatious, protracted and unprofitable school district controversies and dissensions. There will still, however, be left a wide field for the exercise of sound judgment, nice discrimination and untiring patience and equanimity.

To qualify themselves for the judicious and enlightened discharge of the duties and responsibilities thus devolved upon them, the County Superintendents must first render themselves familiar with the various laws relating to common schools and with the published decisions of the department under those laws. In order to secure as far as may be possible, perfect uniformity of decision throughout the state, it is recommended to the several County Superintendents to refer at once to the head of the department, every question respecting the proper interpretation of any given statute or principle, not clearly apparent or specifically settled by the published decisions. It is of the utmost importance that the administration of the system should be uniform in every section of the state. Discordant principles and clashing decisions in reference to the same point, must, it is obvious, fatally weaken the influence of that admirable organization which now prevails, and introduce anarchy and confusion in the place of order and justice.

In the settlement and disposition of the various questions which will come up before them, the County Superintendents can preserve and extend their influence and promote their usefulness, only by a strict impartiality between the contending parties, and a calm, temperate, dispassionate, but at the same time, firm and dignified examination and decision of the points at issue. If they err, either in reference to the facts or the law, a prompt remedy is afforded by an appeal to the department; but if they have imprudently made themselves, either by an overweening confidence in their construction of the law in reference to the particular facts of any given case, or otherwise, parties to the controversy, they will find it exceedingly difficult to regain that influence over the minds and feelings

of the disappointed, or even of the finally successful party, which is so indispensable to the efficient performance of their supervisory duties.

Any inhabitant of a school district conceiving himself aggrieved, in consequence of any proceeding or decision of any school district meeting, or of the Town Superintendent, either separately or in conjunction with the supervisor and town clerk, relative to the formation or alteration of any school district, or of the trustees or librarian, in the discharge of any of the duties devolving upon them, or concerning any other matter arising under the school law of whatever description, is now required to bring his appeal, in the manner and within the time now prescribed by the regulations of the department, to the County Superintendent, whose decision thereon is final, unless appealed from to the department within fifteen days after service of a copy thereof.

#### CASES IN WHICH APPEALS MAY BE MADE.

*Under the 110th Section of the Common School Act. (No. 160.)*

I. Where any decision has been made by any school district meeting.

This includes the whole class of cases, in which district meetings have the power to decide on any proposition or motion that may legally be made to them, under any section of the school act.

II. Where any decision has been made by the Town Superintendent of common schools, or by him and the supervisor and town clerk, in the forming or altering, or in refusing to form or alter any school district, or in refusing to pay any school moneys to any district; and under the general provision, "concerning any other matter under the present title," appeals will also lie from the proceedings of such Town Superintendent in any erroneous distribution of public money, in paying it to any district not entitled, or more than it is authorized to receive; and in fact from any official decision, act, or proceeding, and from a refusal to discharge any duty imposed by law, or the regulations of the Superintendent, or incident to the duties of his office.

III. Where any decision has been made by trustees of school districts in paying any teacher, or refusing to pay him, or in refusing to admit any scholar gratuitously into the school. And under the same general provision referred to, in improperly admitting any scholar gratuitously, in making out any tax list, or rate-bill, or in any act or proceeding whatever, which they undertake to perform officially; and also for a refusal to discharge any duty enjoined by law, or any regulation of the Superintendent, or incident to the duties of their office.

IV. Where Town Superintendents have improperly granted or

annulled a certificate of qualification to a teacher, or have refused to grant or annul such certificate; and where they have undertaken to perform any official act, or refused to discharge any duty imposed by law or under its authority, in the inspection of teachers and visitation of schools.

V. Where clerks of districts, clerks of towns, or other ministerial officers, refuse to perform any duty enjoined by the Common School Act.

VI. Where any other matter under the said act shall be presented, either in consequence of disputes between districts respecting their boundaries, or on any other subject; or in consequence of disputes between any officers charged with the execution of any duties under the laws concerning common schools, or disputes between them and any other person relating to such duties or any of them.

*Under the 4th section of the "Act respecting School District Libraries." (No. 183.)*

VII. Appeals may be made from any act or decision of trustees or school districts concerning the libraries, or the books therein, or the use of such books.

VIII. Any act or decision of the librarian in respect to the library.

IX. Any act or decision of any district meeting in relation to their school library.

X. Appeals also lie from the acts of Town Superintendents of common schools in withholding or paying over library money to any district.

*Under the 40th Section of the Act of 1841, relating to Common Schools. (No. 161.)*

XI. All proceedings under any authority conferred by this act upon any of the officers connected with the common schools, and all omissions and refusals to perform any duty enjoined by said act, is subject to appeal in the same manner and with the like effect as in cases arising under the 110th section above referred to.

#### BY WHOM APPEALS ARE TO BE MADE.

XII. The person aggrieved by the act complained of, only, can appeal. Generally, every inhabitant of a district is aggrieved by the wrongful act or omission of a trustee or Town Superintendent, by which money or property is disposed of, or not secured for the benefit of the district. But no one is aggrieved by another being included in a tax list, or rate-bill, although other inhabitants are by the omission of one who should be taxed; and appeals may be made by trustees, in behalf of their districts, whenever they are aggrieved.

#### FORM AND MANNER OF PROCEEDING.

XIII. An appeal must be in writing and signed by the appellant. When made by the trustees of a district, it must be signed by all the trustees, or a reason must be given for the omission of any, verified by the oath of the appellant, or of some person acquainted with such reason.

XIV. A copy of the appeal, duly verified, and of all the statements, maps and papers intended to be presented in support of it, must be served on the officers whose act or decision is complained of, or some one of them; or if it be from the decision or proceedings of a district meeting, upon the district clerk or one of the trustees, whose duty it is to cause information of such appeal to be given to the inhabitants who voted for the decision or proceeding appealed from.

XV. Such service must be made within thirty days after the making of the decision, or the performance of the act complained of: or within that time, after the knowledge of the cause of complaint came to the appellant, or some satisfactory excuse must be rendered for the delay.

XVI. The party on whom the appeal was served, must within ten days from the time of such service, answer the same, either by concurring in a statement of facts with the appellant, or by a separate answer. Such statement and answer must be signed by all the trustees, or other officers, whose act, omission or decision is appealed from, or a good reason on oath must be given for the omission of the signature of any of them, verified by oath, and a copy of such answer must be served on the appellants or some one of them.

XVII. So far as the parties concur in a statement no oath will be required to it. But all facts, maps or papers, not agreed upon by them and evidenced by their signatures on both sides, must be verified by oath.

XVIII. All oaths required by these regulations must be taken before a judge of a court of record, a commissioner of deeds, or a justice of the peace.

XIX. A copy of the answer, and of all the statements, maps and papers intended to be presented in support of it, must be served upon the appellants or some one of them, with ten days after service of a copy of the appeal, unless further time be given by the County Superintendent, on application, in special cases; but no replication or rejoinder shall be allowed, except by permission of the County Superintendent, and in reference exclusively to matters arising upon the answer, and which may be deemed by such County Superintendent pertinent to the issue: in which case such replication and rejoinder shall be duly verified by oath and copies thereof served on the opposite party.

XX. Proof or admission of the service of copies of the appeal, answer, and all other papers intended to be used on the hearing of such appeal, must, in all cases, accompany the same.

XXI. When any proceeding of a district meeting is appealed from; and when the inhabitants of a district generally are interested in the matter of the appeal; and in all cases where an inhabitant might be an appellant, had the decision or proceeding been the opposite of that which was made or had; any one or more of such inhabitants may answer the appeal, with or without the trustees.

XXII. Where the appeal has relation to the alteration or formation of a school district, it must be accompanied by a map, exhibiting the site of the school-house, the roads, the old and new lines of districts, the different lots, the particular location and distance from the school-houses, of the persons aggrieved; and their relative dis-

tance if there are two or more school-houses in question. Also, a list of all the taxable inhabitants in the district or territory to be affected by the question: the valuation of their property taken from the last assessment roll, and the number of children between five and sixteen belonging to each person, distinguishing the districts to which they respectively belong.

XXIII. When the copy of the appeal is served, all proceedings upon or in continuation of the act complained of, or consequent in any way upon such act, must be suspended, until the case is decided. So where any decision concerning the distribution of public money to one or more districts is appealed from, the Town Superintendent must retain the money which is in dispute until the appeal is decided. And where trustees have money in their hands claimed to belong to any person, or any other district, after the copy of an appeal is served on them in relation to such claim, they must retain such moneys to abide the result, and must not expend them so as to defeat the object of the appeal.

XXIV. Whenever a decision is made by the County Superintendent, and communicated to the Town Superintendent of common schools, respecting the formation, division or alteration of districts, he must cause the decision to be recorded in the office of the town clerk. All other decisions communicated to him, or to the trustees of districts, are to be kept among the official papers of the clerk of the town or district and handed over to his successors; and the district clerks are required to record all such as come to their hands in the district book kept by them.

#### APPEALS TO THE STATE SUPERINTENDENT.

XXV. The following regulations respecting the mode of bringing an appeal from the decision of the County Superintendent have been prescribed in pursuance of the authority conferred by the seventh section of the late act.

Whenever any party to an appeal shall be desirous of appealing to the Superintendent of Common Schools from the decision of any County Superintendent, such party shall, within fifteen days after service of a copy of such decision, serve a written notice upon such County Superintendent, either personally or by leaving the same at his residence, of his or their intention to appeal from such decision. Such County Superintendent shall, within ten days thereafter, transmit to the Superintendent of Common Schools, a statement setting forth all the allegations and proofs of the respective parties before him, or the originals or certified copies of such papers as were presented on such appeal, together with a copy of his decision thereon, for which he shall be entitled to receive the sum of one dollar, to be paid by the party appealing, on service of notice of his intention to bring said appeal. The respective County Superintendents shall annually render a correct account of the money so received by them, verified by their oath, to the board of supervisors of their counties; who, in their discretion may deduct the said amount from the postage account of such Superintendent. The final decision of the Superintendent in the premises shall be communicated by the County Superintendent to the respective parties, on application by them, or



either of them. The bringing of such appeal from the decision of the County Superintendent, shall not operate as a stay of proceedings, unless such stay shall be specially directed by such County Superintendent; in which case a copy of the order staying such proceedings shall be served upon the opposite party.

#### VI. MISCELLANEOUS DUTIES.

1. County Superintendents are undoubtedly within the class of public officers required by the Constitution to take the oath of office. This oath should be filed with the county clerk previous to the performance of any duty.

2. Upon being duly qualified, they are directed to announce the fact to the department, stating their places of residence, and the post-offices to which communications intended for them should be addressed. They will also state the most practicable mode of transmitting to them any books or packages.

3. It is recommended to them to assemble the teachers of neighboring districts, as often as may be, at convenient places, that they may communicate with him and each other, on the best modes of promoting the success of their schools. By comparing their views respecting the manner of teaching, the government of schools, and the various topics of practical duty, they will eventually derive much benefit. Indeed there is no subject on which more light may be thrown than on that of primary education, by full and free discussion; not for the purpose of maintaining preconceived opinions, but with the honest desire of improving by the experience and observation of others. And if permanent associations of teachers can be formed in each county, or where the county is large in different portions of it, they will not only promote the usefulness of the members, but will produce those feelings of reciprocal kindness and good will, which should belong to a profession of such importance, and enable them to preserve and increase the public respect and confidence by the salutary restraint they may exercise over each other, and by the means they will thus possess of excluding unworthy associates. The regular and steady increase in the rate of wages paid to teachers, proves that their profession is advancing in public estimation. The unnatural augmentation of the numbers of those who have heretofore devoted themselves to other professions, particularly

that of the law, has produced the usual effect of a redundancy; and many of the best educated young men in our state are now turning their attention to the business of instruction, as the pursuit of their lives. In this state of things more depends on the teachers themselves, than on any other cause, to elevate the character of their profession, and with it the standard of education, and thus expand to the utmost extent the blessings of our schools.

4. Where there are two Superintendents appointed for the same county, they should abstain from all interference with the powers and duties of each other, as carefully as if they were appointed for separate counties. A violation of this regulation will be sure to be followed by contentions and difficulties the most disastrous. Yet they should frequently meet, so as to produce, as far as possible, harmony of design and concert of action. The reports from each will necessarily relate to his own division of the county. They should, however, unite in a joint report to the department.

6. It is earnestly recommended to the Superintendents of neighboring counties to meet as often as their duties will permit, to compare their observations, to assist in the formation of plans by which the modes of instruction and government in schools may be improved, and their own duties simplified and facilitated; and to promote, by all the means in their power, the success of the great and beneficent system entrusted to their hands.

8. The compensation of the County Superintendents is provided for by § 39, of the act of 1841, (No. 174.) They should make out an account of the number of days "necessarily spent in the discharge of their duties," which should be verified in the manner required by the board of supervisors, which is usually by oath. The board is then to audit and certify the *whole* amount to be paid. Upon producing to the county treasurer a certified copy of the resolution of the board, he is to pay one equal moiety out of the moneys in his hands for the contingent charges of the county. Another copy of the resolution of the board, certified by the chairman and clerk, should then be procured. To this should be attached an order signed by the County Superintendent drawing it, to the treasurer of the state, directing the payment of the re

maining moiety, the amount of which should be specified, to some person to be designated therein. The person in whose favor the order is drawn will present it to the comptroller, with the certified copy of the resolution, and of the State Superintendent, that the officer has complied with the instructions of the department, and has made the annual report required by law; and that officer will draw his warrant on the treasurer, who will pay the amount, on the receipt of the person presenting the order.

It is believed that under the provision allowing compensation "for the days necessarily spent in the discharge of their duties," the Superintendents will have a right to charge for the time employed by them in visiting the schools and districts, in licensing teachers, in annulling their certificates, in collecting the materials for their reports, in visiting the academies in which departments are established for the instruction of teachers, in preparing the reports required of them, and copying those made by the commissioners of towns.

As the pay of the County Superintendents cannot exceed \$500 in each year, which will only cover 250 days, and as in the counties generally, more than that number of days will be required for inspections and preparing reports, there will be little occasion for very minute inquiries respecting the services entitled to compensation.

9. *County Visitors.*—The authority to appoint these visitors given by the act of 1839, (No. 3,) remains in full force, and the gentlemen heretofore selected retain the powers conferred by their appointment and the statute. Although the same exigency for their services does not exist, yet they can still be eminently useful in awakening public attention and concentrating public opinion on the subject of primary education, by co-operating with the County Superintendents. They are, therefore, to be encouraged and assisted in any efforts they may make to visit the schools and improve their condition.

A review of the several heads of these instructions will impress the County Superintendents with the extent, variety and importance of the duties they have assumed. They will perceive that their stations will not be sinecures; and that upon the faithful and conscientious discharge of their obligations will depend the success or

failure of what is believed to be the greatest improvement in our system of common school instruction that has been made since its establishment.

It can scarcely be necessary to say that all the aid in the power of the department of common schools will be cheerfully rendered to facilitate the performance of duties, to which the hopes and expectations of the friends of education are so anxiously directed, and from which so much is expected.

In this country, no systems, however perfect, no enactments, however enlightened, and no authority, however constituted, can attain to the full accomplishment of their object, however praiseworthy and laudable, without the hearty and efficient co-operation of public sentiment. Aided by this co-operation, the most important results may be anticipated from the most simple organization. The repeated and solemn recognition by the representatives of the people, of the interests of popular education and public instruction; the nearly unanimous adoption of a system, commended to the public favor as well by practical experience, as by the concurring testimony of the most enlightened minds of our own and other countries; and the simplification of much of the complicated machinery which served only to encumber and impede the operation of that system; these indications afford the most conclusive evidence not only of the importance which the great mass of our fellow citizens attach to the promotion of sound intellectual and moral instruction, but of their determination to place our common schools, where this instruction is chiefly dispensed to the children of the state, upon a footing which shall enable them most effectually to accomplish the great objects of their institution.

It is upon the extent and permanency of this feeling, that the friends of education rely; and this spirit to which they appeal, in looking forward to the just appreciation and judicious improvement of those means of moral and mental enlightenment which the beneficent policy of the state has placed at the disposal of the inhabitants of the several districts. The renovation of our common schools, distributed as they are, over every section of our entire territory, their elevation and expansion to meet the constantly increasing requirements of science and mental

progress, and their capability of laying broad and deep the foundations of character and usefulness, must depend upon the intelligent and fostering culture which they shall receive at the hands of those to whose immediate charge they are committed. There is no institution within the range of civilization, upon which so much, for good or for evil, depends—upon which hang so many and such important issues to the future well being of individuals and communities, as the common district school. It is through that alembic that the lessons of the nursery and the family fire-side, the earliest instructions in pure morality, and the precepts and examples of the social circle are distilled; and from it, those lessons are destined to assume that tinge and hue which are permanently to be incorporated into the character and the life. Is it too much then, to ask or to expect of parents, that laying aside all minor considerations, abandoning all controversies and dissensions among themselves in reference to local, partisan and purely selfish objects, or postponing them at least, until the interests of their children are placed beyond the influence of these irritating topics, they will consecrate their undivided energies to the advancement and improvement of these beneficent institutions. Resting as it does upon their support, indebted to them for all its means of usefulness, and dependent for its continued existence upon their discriminating favor and efficient sanction, the practical superiority of the existing system of public instruction, its comprehensiveness and simplicity—its abundant and unfailing resources—and its adaptation to the educational wants of every class of community, will prove of little avail without the invigorating influences of a sound and enlightened public sentiment, emanating from and pervading the entire social system. The now neglected and deserted district school must become the central interest of the citizen and the parent, the clergyman, the lawyer, the physician, the merchant, the manufacturer and the agriculturist. Each must realise that there, under more or less favoring auspices, as they themselves shall determine, developments are in progress which are destined, at no distant day, to exert a controlling influence over the institutions, habits, modes of thought and action of society in all its complicated phases; and that the primary

responsibility for the results which may be thus worked out, for good or for evil, rests with them. By the removal of every obstacle to the progressive and harmonious action of the system of popular education, so carefully organized and amply endowed by the state, by a constant, and methodical and intelligent co-operation with its authorized agents, in the elevation and advancement of that system in all its parts, and especially by an infusion into its entire course of discipline and instruction of that high moral culture which can alone adequately realize the idea of sound education, results of inconceivable magnitude and importance to individual, social, and moral well being may confidently be anticipated. These results can only be attained by an enlightened appreciation and judicious cultivation of the means of elementary instruction. They demand and will amply repay the consecration of the highest intellectual and moral energies, the most comprehensive benevolence, and the best affections of our common nature.



## CHAPTER X.

### LOCAL AND SPECIAL PROVISIONS

#### CITY OF ALBANY.

[Chap. 240, Laws of 1830. Chap. 111, Laws of 1831. Chaps. 368 and 369, Laws of 1837. Chap. 128, Laws of 1844.]

THE several district schools of this city are under the general supervision of a board of commissioners, nine in number, appointed by the mayor, recorder and Regents of the University residing in the city. This board is divided into three classes, one of which is annually chosen, and its members hold their offices for three years, and until their successors are duly appointed: subject to removal for cause, by a vote of two-thirds of the appointing board. They are empowered to appoint a president and secretary, the latter of whom is authorized to receive such compensation, not exceeding \$150 annually as the board may prescribe. They are authorized and required to "contract with and employ the teachers of the district schools of said city; to remove any teacher upon manifest neglect of duty, or upon violation of his or her contract; to appoint a collector for the said district schools; to make out rate-bills and exempt indigent children therefrom; to select and introduce uniform class books into said schools; to supply indigent pupils with said class books, by using and appropriating for that purpose a portion of the library money, not exceeding three hundred dollars in any one year; to appropriate and use, for the purpose of keeping in repair the several libraries of said district schools, for increasing the same, and for purchasing maps and apparatus for said schools, a further portion of said library money, not exceeding three hundred dollars annually; to provide for the instruction of the pupils of said district schools in vocal music, by appropriating a farther portion of said library money, not exceeding four hundred dollars



annually; to secure, with whatever may remain unexpended of said library money, the education of such number of indigent pupils from said district schools, in either of the academies or in any normal school of said city, by paying for their tuition therein, as the common council of said city may sanction; but all children so educated must have been members of said district schools for at least two years, and neither of such academies shall receive from the distribution of the literature fund, any sum for or on account of such pupils; and such academies shall, in their annual report to the Regents of the University, state the number of such pupils taught therein; and no portion of such unexpended money can be so appropriated until the ordinary expenses of said district schools for libraries and tuition are first satisfied; to visit the district schools as often as once a quarter; to hold a meeting of the board once a month, and at the quarterly meetings of said board to require the presence and reports of the several principal teachers of said schools; to make a semi-annual report of all the acts of said board to the common council, and to make and publish an annual report in two of the daily papers of said city; and generally to possess the powers, discharge the duties and be subject to all the obligations of trustees and other school officers of the said city of Albany, as granted and imposed by the several acts in relation to district schools of said city." They are also authorized to make such by-laws and regulation as may be necessary for the prosperity, good order and sound discipline of said district schools; for the security and preservation of the school-houses and other property belonging to said districts; and generally to carry into effect the provisions of the several school acts of said city; and when said by-laws and regulations are sanctioned by the persons authorized to appoint commissioners, they are to take effect.

All school moneys belonging to the district schools, whether received from the state, raised by tax, or collected on school rates are to be deposited with the chamberlain of the city, until drawn, from time to time, by duly certified orders of the board of commissioners; and said orders are to set forth the object of each payment. and

be signed by the officers of the board; who are restricted by a special provision from incurring any obligation that shall increase the taxes of said city.

The supervisors of the county of Albany, at their annual meeting in each year, are required to cause a sum of money equal to twice the amount of the money apportioned to the city from the common school fund, together with collectors' fees, to be raised, levied and collected, in the same manner that other taxes are raised, levied and collected; and when so raised, to be paid to the chamberlain, for the support of common schools in the city of Albany.

The commissioners are required, in each year, to apportion of the moneys paid to the chamberlain of said city, for the support of common schools, one hundred dollars to each school district east of Perry-street, and twenty-five dollars to each school district west of Perry-street; said moneys to remain in the chamberlain's hands until drawn, from time to time, by duly certified orders of the board, as hereinbefore specified, to be applied for contingent expenses, repairs, fuel, &c. They are also to apportion, annually, on the returns of qualified teachers, for the instruction of the children in the Albany orphan asylum, which, for this purpose, is regarded as one of the district schools.

No district east of Perry-street has power to hold a district school meeting, to vote a tax, or to do any act as a district meeting, nor to sell or dispose of the district property, without a legislative enactment.

The inhabitants of the city of Albany residing west of Perry-street, within any district now formed, or which may hereafter be formed in said city, and the clerk, trustees and collector of every such district, possess the like powers, and are subject to the like duties and liabilities, as the inhabitants and same officers of school districts in the towns in this state, except where it is otherwise specially provided.

The inhabitants of the city residing west of Perry-street, and east of a parallel line three miles west thereof, qualified to vote for town officers, are required, each

year, to meet at some convenient place within said bounds, and there elect by ballot one commissioner and one inspector of common schools, and one collector, and to form themselves into a school district, the same as a separate ward. They are authorized to impose and collect the same taxes upon the real and personal property within the said district, for the hire or erection of a school-house, and the support of a teacher, as if they were a separate ward, and are entitled to a like distribution of the school money.

## CITY OF BROOKLYN.

[Chap. 63, Laws of 1843.]

The common council are *ex officio* Commissioners of common schools, with all the powers conferred by the general law on Town Superintendents, except as modified by the special provisions hereinafter referred to.

The entire management, control and direction of all the district schools in the city are committed to a board of education, consisting of two representatives from each of the districts, appointed by the common council, and divided into three classes, one of which goes out of office annually, and their successors are appointed. The members of the several classes are, however, re-eligible, and hold their places until their successors are appointed. All vacancies are to be filled by the common council; and whenever any new district is formed, they are to appoint two or more persons to represent the same, and to assign such persons to such of the classes as they may deem proper, having regard, as far as practicable, to the preservation of an equality in the several classes.

The board of education possess the general powers, and are subject to the general restrictions and liabilities conferred or imposed by law upon trustees of school districts, subject to the power of the common council, to make such provisions, by ordinance, for the regulation of such board, not inconsistent with the general school laws of the state, as shall seem to them necessary to effect a complete and efficient organization for common school education.

The mayor of the city and the County Superintendent of Kings county are *ex officio*, members of the board of education.

The joint board of city supervisors and the common council are authorized at their annual meeting to specify such amount as they shall deem necessary to be levied and collected by tax for common school education, not exceeding one-quarter of a mill upon every dollar of the value of the taxable property of the city as assessed the preceding year. They may also determine [Chap. 93 Laws of 1836,] what sums are necessary to be raised for the purchase of a suitable site for a school or school-house in any of the school districts, and for the building of a suitable house or houses therein, which sums are to be levied and collected upon the taxable property within the respective districts where such school-house is to be built, and when collected to be paid over to the board of education, to be by them applied to the specific purposes for which they were designed. These sums are in addition to, and exclusive of, the amount levied by the board of supervisors of the county to entitle the city to its distributive share of the school moneys of the state; and when collected, they, together with the amount received from the state and that levied by the board of supervisors, are to be paid over to the city treasurer and by him placed to the credit of the board of education and disbursed in accordance with such ordinances as may be adopted by them for this purpose.

#### CITY OF BUFFALO.

[Title IX. Chap. 122, Laws of 1843.]

The mayor and aldermen of the city are *ex officio* Commissioners of common schools, and are authorized, in common council assembled, to perform all the duties, and are vested with all the rights powers and authorities of Commissioners, (Superintendents) in the several towns. For all school purposes, the city is to be regarded as one of the towns in the county of Erie. A City Superintendent of common schools is also annually appointed by the common council, on the second Tuesday of March.

All the district schools organized within the city are

public and free to all white children under sixteen years of age, residing therein; and the common council are required by law to direct and cause a sum, not exceeding ten thousand dollars, to be annually levied on the taxable property of the city, for the support of these schools; in addition to which they are authorized, by a vote of two-thirds of the aldermen elected, to include in the general annual city tax, such sum as, in their opinion, with the public school moneys for the year, will be sufficient to support their school system, and to defray such of the expenses of the schools under their charge as may not be provided for by taxation in the respective districts, under the provision hereinafter specified. The moneys so to be raised, together with all moneys received from any source for school purposes, constitute a separate and distinct fund, incapable of diversion to any other purpose whatever. The common council are authorized, however, by a special provision of law, to expend such portion of the library money received from the state, as they may deem proper, "in binding and repairing the books in the city [school] library, in purchasing maps and other apparatus for the schools, and in supplying indigent scholars, in the schools under their charge, with the necessary common school books and other implements of learning."

The common council are also required to "provide and maintain one or more free schools in the city for the colored children thereof;" to "purchase one or more sites and erect thereon, furnish and maintain all buildings necessary for such schools," and from time to time to raise all moneys necessary for these purposes by a general city tax.

They are also authorized and required, whenever it may be necessary so to do, to designate and purchase or lease in each school district, a site or sites for the school-house or school-houses therein, and to fence and improve the same, as to them shall seem suitable and proper; to build on such site or sites, or on any lot owned by such district, such school-house or school-houses and out-houses as shall to them appear suitable and sufficient for such district; to complete, improve, enlarge or repair any district school-house, from time to time, as they shall think proper, and to supply such school-houses, whenever

they deem it expedient, with such school apparatus, books, furniture and appendages as they may direct, and to prescribe the course and extent of the studies to be pursued therein; to order from time to time, a tax to be levied on all the taxable property of any district, sufficient to pay all such sums as they may have expended, or deem necessary to be expended in that district, for the purpose above specified; to make out a tax roll or list of every district tax ordered by them, within sixty days after such district tax shall be ordered, similar in form to the general assessment roll in said city, ascertaining the valuation of the property to be taxed as far as possible from the last assessment roll of said city—no person to be entitled to any reduction of the valuation of such property so ascertained, unless he shall give notice of his claim to such reduction to the City Superintendent of common schools, within ten days after the passage of the order to raise such tax; and when such valuation of taxable property cannot be ascertained from such assessment roll, the common council, or such Superintendent are to ascertain such valuation by the best means in their power, and such rolls are to be delivered for collection either to the city collector or the collector of the district; to make such by-laws and ordinances as they may deem necessary for the prosperity and good order and government of the common schools, and the security and preservation of the school-houses and other property belonging to the school districts, and to prescribe the duties and powers of the Superintendent, and of the several district clerks, trustees and collectors, in all cases not provided for by the act; to require and take from the district collectors such security as they may deem adequate, and if such security be not given by any such collector, to remove him and appoint a successor; to authorize and require the Superintendent of common schools in said city to do any act, or to perform any duty, required of any trustee of a school district of said city, in case of any vacancy in the office of trustee, or of the neglect or refusal of such trustee to perform such duty; to divide the district schools in said city into primary and higher departments or otherwise, whenever they shall deem such division desirable, and to prescribe regulations for the transfer of scholars from one department to

the other, and also to direct the Superintendent to provide suitable and sufficient instruction for each of the said departments."

The City Superintendent is the executive officer of the common council to carry into effect its ordinances and the several provisions of law, applicable to the common schools; and to perform any duty in respect to such schools, which they may assign to him; and he is invested with all the powers and authority, and subject to all the duties and obligations of Town Superintendents in reference to the visitation and inspection of the city schools, and the licensing of teachers. He also has the care and custody of the several school-houses of the city; contracts with and employs all teachers; under the direction of the common council, contracts for and superintends the building, enlarging, improving, furnishing and repairing of all the school-houses, ordered to be erected by them, and the making of all repairs and improvements on and around the same; and in all cases where no other special provision is made, supplies the place and performs the duties in respect to the several school districts of the city, of trustees of districts under the general statutes relating to common schools.

The inhabitants of the several districts possess the same powers, when legally assembled in district meeting, as is given by law to the inhabitants of the several school districts throughout the state, except that one trustee only can be elected for each district, and except that such meeting can neither designate the site for a school-house, lay a tax to purchase or lease the same, or to build, hire, or purchase a school-house for such district: and the clerk and collector of such districts possess the general powers and authority, and are subject to the same duties and obligations, as such officers in the several districts of the state. Notices of annual, special or adjourned district meetings, are given by publication once in each week for two successive weeks preceeding the time of holding such meeting in one of the city papers, and by affixing a copy of such notice on the outer door of the district school-house, and in three other public places in the district, at least ten days prior to such meeting. The annual meetings of the several districts are on the Monday preceding

the last Tuesday of December in each year. The City Superintendent is required to revise the proceedings of such meetings, and see that the proper records are made, provide a book for that purpose, open at all proper times to inspection and examination by him and by the common council.

Trustees are required to visit the schools at least once during each quarter, and to report their condition, with such suggestions for their improvement as they may deem proper to the common council.

The common council are required annually to publish in the city paper, a statement of the number of common schools in the city; the number of pupils instructed therein during the preceding year; the several branches of education pursued, and the receipts and expenditures of each school; specifying the sources of such receipts and the objects of such expenditure.

#### CITY OF HUDSON.

[Chap. 350, Laws of 1841.]

The members of the common council of the city of Hudson are, by virtue of their office, commissioners of common schools in and for said city, and in common council are to perform all the duties of such commissioners, and possess all the rights, powers and authority, and are subject to all the duties and obligations of Commissioners of common schools [Town Superintendents] in the several towns of this state, and have power,

"1. To divide the city into school districts, of which there shall not be less than three, in the compact part of the city:

"2. To designate, purchase or lease, or otherwise obtain, in each school district, a site or sites for a school-house or school-houses therein, and shall fence or improve the same in such a manner as to them shall appear suitable and proper:

"3. To cause to be built or procured, in each district, such school-house or school-houses, and out-houses, as shall appear to them suitable and sufficient:

"4. To complete, improve, enlarge or repair any district school-house, from time to time, as they shall think proper; and they shall supply the district school-houses



whenever they shall deem it expedient, with such school apparatus, books, furniture and appendages as they may think necessary :

" 5. To appoint, in the manner provided by them for the appointment of other officers in said city, three persons to be denominated a board of Superintendents ; of these three persons the one first chosen shall continue in office for three years ; the one next appointed shall continue in office for two years, and the one last appointed shall continue in office for one year.

" 6. To make such by-laws and ordinances as may be, in their opinion, necessary for the prosperity and good order, and efficient government of the common schools, and the security and the preservation of the school-houses, and other property belonging to the school districts ; and to prescribe the duties and powers of the board of superintendents in all cases not provided for by this act.

" 7. To require and take from the Superintendents and collectors such security as they shall deem expedient, and if such security is not given by any Superintendent or collector, the said common council may declare his office forfeited and appoint another Superintendent or collector in his place.

" 8. To supply a vacancy produced in the board of superintendents, from any cause ; the person appointed to fill such vacancy shall continue in office during the unexpired remainder of the term for which his predecessor was chosen, and no longer, unless re-appointed.

" 9. To divide the district schools in said city into primary and higher departments, or otherwise, whenever they shall deem such division desirable ; and to prescribe regulations for the transfer of scholars from one department to another, and they shall direct the board of superintendents to provide a sufficient number of suitable instructors for each of these departments."

The clerk of said city, by right of office, is the clerk of the mayor and aldermen thereof when acting as commissioners of common schools, and he, as such clerk, is required to perform all the duties in reference to said city, that the town clerks in the several towns in this state perform as clerks of Town Superintendents and is subject to the same penalties for the neglect thereof.

The board of superintendents of common schools, in respect to the common schools in said city, possess all the powers, and are subject to all the duties and obligations of the Superintendents of common schools in the several towns: they are to carry into effect all the ordinances and orders of the common council, in respect to common schools; and the common council may assign to said board any duty required of them, in respect to the common schools in said city. The said board are under the direction of the common council, and they have power, and it is their duty,

"1. To contract for and superintend the building, enlarging, improving, furnishing and repairing of all school-houses under the charge of said common council and the making of all repairs and improvements on and around the same.

"2. To provide for the safe keeping of the district school-houses in said city.

"3. To contract with and employ all the teachers in the several districts therein.

"4. To prevent scholars resident in one district from attending a school in another district, and also to prevent scholars from going from one school to another in the same district, without having in both the above cases written permission so to do from the said board.

"5. To select such books as they shall deem most suitable to be used as class books in the schools, and to establish an uniformity in all the schools in regard to the books used therein.

"6. To visit each school as often as once in each quarter, and to report the condition of the same, with such suggestions for the improvement thereof, to the common council as they may deem advisable, which report shall be published by the common council in two of the city papers.

"7. To remove any teacher, on manifest neglect of duty, or upon his violating his contract; upon paying such teacher pro rata for the time he has been employed.

"8. To pay the wages of all the teachers by orders on the common council as commissioners of common schools, so far as the public money in their hands, or the money raised by taxes to be hereafter provided for, and the money paid over by the collector of the rate bills, shall be sufficient for the purpose.

"9. To make out rate bills for the payment of teachers and contingent expenses, against the parent or guardian of each scholar, and expense of collection of the same, (except those exempted, as hereafter to be provided for,) which shall not however exceed two dollars per quarter for each scholar; and no bill shall be made out for less time than one quarter, and to annex thereto a warrant for the collection thereof."

The common council are to appoint a collector or collectors for the purpose of collecting the rate-bills, if any are made out by the board of superintendents; said collectors are to pay over the amount thus collected to the board of superintendents, subject to their order, for payment of teachers' salaries, fuel and such contingent expenses as the common council may ordain. [Chap. 12, Laws of 1843.] Rate-bills are to be made out and levied upon the parents or guardians of children sent to the district schools, in the manner provided by law in respect to school districts, except such as shall procure a certificate of inability to pay the same from the aldermen or assistant aldermen of the ward in which such parent or guardian resides.

The common council are authorized to raise by tax upon the real and personal property of said city in the same manner as the general taxes of the city are levied and collected, such sum annually, not exceeding two hundred dollars, as may be necessary for repairs, and furniture of the school buildings and contingent expenses.

The supervisors of the county of Columbia, at their annual meeting in each year, are required to cause a sum of money equal to four times the amount of money apportioned to the city of Hudson from the common school fund, together with the collector's fees, to be raised, levied and collected in the same manner that other taxes are raised, levied and collected, and when so raised to be paid to the chamberlain for the support of common schools in said city. After the year 1853, the common council have it in their power to reduce, if they deem it expedient, the above sum to twice the amount apportioned to the city of Hudson, from the common school fund, and have recourse to the system of rate-bills as adopted in the several towns in this state, to supply deficiencies.

The board of superintendents, are, by the provisions of chap. 12 of the Laws of 1943, authorized to receive and expend in the mode herein before prescribed, all moneys intended for the support of common schools in said city; and the county treasurer, and the several city collectors of taxes, as well as of rate-bills, are required to pay over directly to them all moneys intended for the benefit and support of common schools in said city which may come into their hands.

All the general laws of the state, except as modified by the special provisions herein before included, extend to and include the schools established under this act, and all the officers having charge of or in any way connected with them.

CITY AND COUNTY OF NEW-YORK.

[Chapter 320, Laws of 1944.]

The several public schools now organized, or hereafter to be organized in this city, are subject to the general supervision, management and control of a board of education, consisting of two commissioners, two inspectors, and five trustees, in each of the wards; one of each class to be annually elected, on the first Monday of June in each year by the inhabitants entitled to vote for city officers; the commissioners and inspectors to hold their offices for two years, and the trustees for five years.

The amount of public school money apportioned by the state to the city, is required to be received by the chamberlain and placed to the credit of the common council for the benefit of common schools. The board of supervisors are required annually to raise by tax on the taxable property of the city and county, an equal amount, and also a sum equal to one-twentieth of one per cent of the assessed valuation of said city and county, the whole of which is to be applied exclusively to the purposes of common schools, and to be deposited on the application of the board of education and the order of the common council, in one of the incorporated banks of the city, to the credit of the commissioners of the respective wards, and of the several societies and schools entitled thereto. They are also required to raise such further sum as may be necessary for the erection, purchase, or lease, and fitting up of

school-houses, and for procuring sites therefor, to be paid over to the chamberlain, subject to the order of the board of education, under a specific appropriation.

Whenever the commissioners, inspectors and trustees elected in any ward, or a majority of them, including at least one commissioner and inspector, shall certify in writing to the board of education, that it is necessary to organize one or more additional schools in such ward, with the facts and circumstances showing such necessity, the board are required, without delay, to investigate the subject and to determine upon the necessity and expediency of establishing such school or schools. If the application is refused, any person aggrieved by such decision may appeal to the Superintendent of Common Schools, whose decision is declared binding on the party making such application, for the term of one year thereafter. Upon a decision by the board of education, or the Superintendent, favorable to the application, the commissioners and inspectors of the ward are authorized to proceed in the organization of such school or schools, and either to hire a school-house, or purchase a site and erect a building thereon, which said building, and the fitting up thereof, or the fitting up of any hired building, in case the expense exceeds two hundred dollars, is required to be done by contract, to be advertised at least two weeks previous to the acceptance of the estimates thereon. The commissioners and inspectors are also to furnish the books, stationery, and other necessary apparatus and furniture for the school, by contract, as far as practicable. The title to all lands and buildings so purchased; is declared to be vested in the common council: and the expense of establishing and organizing such schools, is to be levied and raised, as above mentioned, on the taxable property of the city, on the application of the board of education.

The schools of the Public School Society, including its normal schools, the New-York Orphan Asylum school, the Roman Catholic Orphan Asylum school, the schools of the two half-orphan asylums, the school of the Mechanics' Society, the Harlem school, the Yorkville public school, the Manhattanville free school, the Hamilton free school, the Institution for the Blind, the school of the Leake and Watts Orphan House, the school connected

with the Alms-House, and the school of the Association for the benefit of Colored Orphans, are respectively entitled to participate in the apportionment of the school fund, and are made subject to the general supervision of the board of education, but left under the immediate government and management of their respective trustees, managers and directors. The titles to all school property, real or personal, hereafter to be purchased by either of such societies, with funds derived from the school moneys so apportioned, are declared to be vested in the common council.

The board of education are required to apportion the school moneys received from the state, and raised upon the city, (with the exception of the amount raised for the establishment and organization of new schools, as above specified,) among the several schools and societies entitled to participate therein, according to the number of children over four and under sixteen years of age, who shall have actually attended said schools, without charge, the preceding year; the average attendance to be ascertained by adding together the number of such children present at each morning and evening session, and dividing the same by 480; and in that proportion where schools have been organized at any intermediate period during the year. Where any school, by reason of peculiar circumstances is equitably entitled to a larger sum than its proportion so ascertained, the board are authorized to make such additional allowance as they may think expedient. "But no school shall be entitled to a portion of school moneys, in which the religious sectarian doctrine or tenet of any particular Christian or other religious sect shall be taught, inculcated, or practised, or in which any book or books containing compositions, favorable or prejudicial to the particular doctrine or tenets of any Christian sect, or which shall teach the doctrine or tenets of any other religious sect, or which shall refuse or [to?] permit the visit and examinations provided for in this act." "But nothing herein contained shall authorize the board of education to exclude the Holy Scriptures without note or comment, or any selections therefrom, from any of the schools provided for by this act: but it shall not be competent for the board of education to decide what version, if any, of the Holy

Scriptures without note or comment shall be used in any of the said schools: provided that nothing herein contained shall be so construed as to violate the rights of conscience, as secured by the Constitution of this state, and the United States."

It is made the duty of the commissioners, inspectors and trustees in each ward, from time to time, and as frequently as need be, to examine, ascertain and report to the board of education whether these provisions have been violated: and the commissioners in the several wards are to transmit to the board all reports made to them by the trustees and inspectors of their respective wards. The board of education and any member thereof, may at any time visit and examine any school subject to the provisions of the act, and individual commissioners may report to the board the result of their examinations.

Where the share of school moneys apportioned to any school or society, shall exceed its necessary and legal expenses, the board of education are to authorize the payment only of such amount as may be necessary, and to pay the balance remaining, on deposit to the credit of such school, into the city treasury: and in case of any deficiency in the amount so apportioned, to meet such necessary expenses in any case, such deficiency is to be supplied by the common council, in anticipation of the annual tax for the support of common schools, on the certificate of the board of education, stating the cause of such deficiency, and that it was unavoidable.

The board of education are required to file with the city chamberlain, on or before the first Monday of April in each year a copy of their apportionment, specifying the amount to be paid to the commissioners of each ward, and to the trustees, managers or directors of the several schools entitled to participate in such apportionment: and the chamberlain is authorized to pay the several sums so apportioned, on the drafts of either of the commissioners, trustees, or other persons duly authorized to receive the same, countersigned by the president and clerk of the board of education. They are also required on or before the first Monday of July in each year to report to the board of supervisors, an estimate of the probable amount which will be required to be raised during the year, for

the purpose of meeting the current annual expenses of common school instruction, and whether more or less than one-twentieth of one per cent in addition to an equal amount with the state quota will be necessary, which amount so reported the board of supervisors, or the common council, on their application, are required to cause to be raised on the taxable property of the city; and the board of education are authorized to retain from the amount so raised the sum of five hundred dollars for the purpose of defraying their necessary incidental expenses, and such further sum as may be required for the payment of the salary of their clerk.

All expenses incurred for the support of common schools in the respective wards, are to be certified by the trustees and inspectors of such ward, or a majority of them, and delivered to the commissioners whose duty it is to audit, examine and pay the same, from the funds in their hands or which have been deposited to their credit: and to file the bills with the board of education.

Whenever an apportionment of public money shall not be made to any school in consequence of any accidental omission to report in accordance with law, or to comply with any other provision of law or any regulation, the board of education are authorized to direct an apportionment according to the equitable circumstances of the case.

The board of education are required annually, between the first day of May and the first day of June in each year, to make and transmit to the county clerk a report bearing date on the first day of May, stating

1st. The whole number of schools within their jurisdiction, specially designating the schools for colored children;

2d. The schools or societies from which reports shall have been made to the board of education, within the time limited for that purpose;

3d. The length of time each school shall have been kept open;

4th. The amount of public money apportioned or appropriated to each school or society;

5th. The number of children taught in each school;

6th. The whole amount of money received by the commissioners or by the societies and schools enumerated in



the eleventh section, for the purposes of common school education during the year ending at the date of their report, distinguishing the amount received from the general fund of the state and from any other and what source ;

7th. The manner in which such moneys shall have been expended, and whether any and what part remains unexpended, and for what cause ;

8th. With such other information as the Superintendent of Common Schools may from time to time require in relation to common school education in the city and county of New-York.

In case of neglect to make such annual report within the limited period, the share of school moneys apportioned to the city and county of New-York may, in the discretion of the Superintendent of Common Schools, be withheld until a suitable report shall have been rendered.

The commissioners of each ward are required to keep a just and true account of all school moneys received and expended by them or carried to their credit, and on or before the first Monday of June in each year, to render to the board of education a just and true account in writing of all school moneys by them respectively received before the time of rendering such account, and the manner in which the same shall have been expended by them ; and the account so rendered is to be filed and recorded in the office of the clerk of the board of education. If, on rendering such account, any balance shall be found remaining in the hands of the commissioners, or any of them, or standing to their credit, the said balance is to be paid over or carried to the credit of the commissioners of the ward for the ensuing year.

The board of education have the powers and privileges of a corporation so far as to enable them to take and hold any property transferred to them for the purposes of common school education in the city and county of New-York.

No compensation is to be allowed to the commissioners, inspectors, or trustees of common schools, for any services performed by them, but they are entitled to receive their actual and reasonable expenses while attending to the duties of their office, to be audited and allowed by the board of supervisors.

The commissioners of each ward are required within thirty days after their election, to execute and deliver to the board of supervisors, a bond, with such surety or sureties as said supervisors shall approve, in the penalty of double the amount of public money appropriated to the use of the common schools of their respective wards, the preceding year, conditioned for the faithful performance of the duties of their office, and the proper application of all moneys coming into their hands for common school purposes; and such bond is to be filed by the said supervisors in the office of the county clerk.

The commissioners of common schools in each ward, together with the inspectors elected in their ward, are the inspectors of common schools of their ward; and invested with all the powers and required to perform all the duties appertaining to such office under the general school act. Two inspectors, at least, must concur in a certificate of qualification to teachers, and no teacher can be employed in any of the schools organized under the act, who does not hold such certificate. The several schools are to be visited and examined by the inspectors monthly at least. Any certificate of qualification may be annulled by the inspectors, on a notice of ten days to the teacher holding such certificate: and to the trustees of the ward in which he may be employed; to take effect, however, only on the approbation of the board of education and filing with the clerk a note of the time when such certificate was annulled.

The trustees of each ward are charged with the custody and safe-keeping of all the property belonging to the schools organized under the act in their respective wards: they contract with and employ all the teachers in said schools; pay their wages and the other expenses of the school by drafts on the commissioners of the respective wards, and procure the necessary blank books, in one of which are to be entered the accounts of all moneys received and paid by them, and a statement of all the moveable property of the school, and in the other the names of the scholars attending school, and the number of days they have respectively attended, duly verified by the affidavit of the principal teacher. They are also, together with the trustees or managers of the various schools and socie-

ties entitled to participate in the public moneys, to make and transmit to the board of education, on or before the 15th of February, in each year, a report in writing, signed and certified by a majority of the trustees making it, or by the presiding officer and secretary of such societies or schools, setting forth,

1st. The whole number of schools within their jurisdiction, specially designating the schools for colored children;

2d. The length of time each school shall have been kept open;

3d. The whole number of scholars over four and under sixteen years of age, which shall have been taught, free of expense to such scholars, in their schools, during the year preceding the first day of February, which number shall be ascertained by adding to the number of children on register at the commencement of each year, the number admitted during that year, which shall be considered the total for that year.

4th. The average number that has actually attended such schools during the year, to be ascertained by the teachers keeping an exact account of the number of scholars present every school time or half-day; which being added together and divided by four hundred and eighty, shall be considered the average of attending scholars, which average shall be sworn or affirmed to by the teachers.

5th. The amount of moneys received during the last year from the commissioners of school money, or from the chamberlain, and the purposes for, and the manner in which the same shall have been expended.

6th. A particular account of the state of the schools, and of the property and affairs of each school under their respective care, with such other information as the board of education shall from time to time require. For any false report, with intent to obtain a greater share of public money than belongs to the district society or school, the trustee or officer signing the same, forfeits the sum of twenty-five dollars, and is to be deemed guilty of a misdemeanor.

All personal property vested in, or hereafter to be trans-

ferred to the trustees of any ward for the use of schools in such ward is to be held by them as a corporation.

Every trustee of a ward on the expiration of his official term, is to render to his associates a just and true account in writing of all moneys received by him for school purposes, and of the mode of its expenditure; and to pay over to them any balance appearing to be due. For refusal or neglect to render such account, or pay over such balance, a forfeiture of fifty dollars is incurred, to be sued for and collected by the board of supervisors, together with such unpaid balance.

Commissioners and trustees are protected against a judgment for costs in suits commenced against them for any act performed by virtue of, or under color of their offices, (except suits for penalties, or suits or proceedings to enforce the decisions of the Superintendent) where the court shall certify that it appeared on the trial that such officers acted in good faith.

All children between the ages of four and sixteen, residing in the city, are entitled to attend any of the common schools therein, without charge for tuition.

The County Superintendent is biennially appointed by the board of supervisors, and possesses the same general powers, and is required to perform the same general duties in reference to the schools of such city, as are conferred and imposed upon other County Superintendents under the general school act, with the exception of jurisdiction on appeal. In case of a vacancy in his office, the common council are authorized to fill the same, until the next meeting of the board of supervisors.

In case of the death or resignation of any member of the board of education, or of any inspector or trustee, or of a neglect or refusal to qualify or give the prescribed security, on the part of any commissioner, inspector, or trustee, the vacancy so occasioned is to be filled by the common council until the next annual election.

#### POUGHKEEPSIE.

[Chap. 211, Laws of 1843.]

The village of Poughkeepsie forms a permanent school district, not subject to alteration by the Town Superintendent of common schools. A board of education, con

sisting of twelve persons, divided into four classes, one of which is annually to be elected, have the general supervision, control and management of the schools and school property. One good and substantial school-house is to be provided by the board, containing two rooms, of sufficient capacity to accommodate not less than one hundred and twenty-five pupils, for the erection of which and the purchase of a site, the sum of three thousand dollars is specifically appropriated by law. They are also to rent five other rooms for primary schools, for which the necessary funds are provided, and are authorized, whenever they may deem it necessary to establish other primary schools, including the school of the Lancasterian School Society, with the consent of the trustees thereof: and to fix, determine, and certify the amount of money, which, when added to the money annually apportioned by the state, shall be adequate to the support of all the schools under their superintendence—not exceeding four times the amount apportioned by the state for the preceding year. The amount so certified is to be reported by the trustees to the citizens of the village at their annual charter election, who, in their discretion, may vote the same, or any portion they may deem proper, to be levied on the taxable property of the village, by the trustees, and when collected, paid over to the treasurer of said village, to be by him disbursed, on the resolution of the board of education, duly certified. Whenever the board deem an additional school-house necessary, they are to specify that fact in their annual report, together with the proposed location of such school-house, the cost of its site, and of the building, and a plan of the latter: and the electors of the village, at the period of the annual election of the members of the board, as hereinbefore specified, are required to vote by ballot for or against the erection of such school-house: the cost of building and furnishing of which, in case of the approval by the electors of its erection, can in no event exceed three thousand dollars; and the expense of its erection is to be defrayed by a loan, payable after the expiration of twelve years, in equal annual instalments of five hundred dollars each, by a general tax on the real and personal property of the village. The board of education are invested with the general powers and duties of

Town Superintendents, except as modified by the special provisions herein referred to.

The public money applicable to the village schools, is to be paid over by the Town Superintendent to the treasurer of the village.

CITY OF ROCHESTER.

[Chap. 208, Laws of 1841.] [Chap. 145, Laws of 1844.]

The several district schools organized and established according to law in this city, are under the general control of a Board of Education, consisting of two Commissioners of common schools annually elected in each of the wards of the city, on the first Tuesday of June, in the same manner with other city officers, who are vested with all the rights, powers and authority, conferred by law on Town Superintendents of common schools, in the several towns of the state. Any vacancy in the board may be filled by appointment by the common council. The board are required to meet on the first Monday of each month, and as much oftener as they shall from time to time appoint, and a majority constitutes a quorum for the transaction of business. One of their number is to be appointed president, who, when present, is to preside at all meetings of the board, and is authorized to call special meetings, whenever he may deem it expedient; and in case of his absence, the board are authorized to choose a president pro tem. They are required annually to appoint a City Superintendent of common schools, removeable at pleasure by them, who is *ex officio* clerk of the board, whose duty it is to attend their meetings, keep a record of their proceedings, and perform such duties as they may from time to time prescribe, and who possesses all the powers, and is required to perform all the duties of County Superintendent, in reference to the schools of said city. His compensation is to be fixed by the board, and paid by the city treasurer from the funds raised for the support of common schools.

On or before the third Tuesday of July in each year, the Board of Education is required to "fix and determine and certify and report to the common council, the amount of money which, when added to the money annually apportioned to the several school districts of the said city,

out of the funds belonging to the state, shall be necessary to support all the common schools in said city, and to pay the compensation of the clerk of the said Board of Education ;" such amount in no case to exceed five times the amount of the last preceding state apportionment. This amount, so certified and reported by the Board of Education, together with the sum of three hundred dollars for contingent expenses, (unless the common council reduce the amount so certified and reported to an amount not less than four times the amount so apportioned by the state, which they are authorized to do,) is to be annually levied and raised by the common council, on the taxable property of the city ; and together with the sum apportioned by the state, to be paid over when collected to the city treasurer, who is required from time to time to disburse the same, upon the resolution of the Board of Education, duly certified by the president and City Superintendent. The apportionment of these funds is to be made by the board, in the same manner as the school moneys are apportioned in the several districts of the state.

Whenever the inhabitants of any of the districts signify, by vote, their intention to build a school-house, the Board of Education are required to fix the site of such house, and to determine the sum necessary to be raised for the purchase thereof and for building a school-house thereon—such sum in no case to exceed three thousand dollars—which they are to report to the common council, whose duty it is to levy and raise by tax upon the taxable inhabitants of such district, the sum so reported, or the amount to which they may reduce the same. When collected, the amount is to be paid over to the city treasurer and credited to the district ; and is payable by such treasurer to the trustees, on the resolution of the Board of Education, duly certified as aforesaid.

The Board of Education, exclusively, are required to audit all accounts and claims against any school district of the city, and payment of the same is required to be made directly to the claimants by the city treasurer, out of the moneys belonging to such district, upon a duly certified resolution of the board.

The names of the trustees and other officers of school

districts are, within ten days after their election, to be returned by the district clerk to the Board of Education.

The Board of Education are authorized to separate any portion of a school district in the city, annexed to or united with a portion of a district in any of the adjoining towns, without the consent of the Town Superintendent of the latter.

The Board of Education are authorized "to establish and cause to be kept, such number of schools in said city for the instruction of colored children, as they shall deem expedient," of which schools they are to possess all the power, and be subject to all the duties and responsibilities, of trustees of common schools in the town, so far as the same are applicable, and to pay the compensation of the teachers, of the said schools, and all the other expenses thereof, out of the moneys raised by tax for the support of common schools; and until such schools are provided, no tax for the support of common schools can be imposed upon the property of any colored inhabitant of said city. Whenever they determine to establish such schools, they are to divide the city into convenient districts for the accommodation of such children; to make an estimate of the expense of erecting a suitable school-house in each of the said districts; to determine the sites thereof respectively; and to report their doings to the common council, who, at their option are authorized to raise by a general tax on the city and on a separate warrant, such sum as shall be necessary to build a school-house in each of the said districts, or in as many of them as they may deem expedient, not exceeding in the aggregate the sum of five thousand dollars. In case of a refusal by the common council to raise such tax, the board of education are authorized to lease suitable rooms or buildings for the accommodation of such schools, or either of them, provided the annual expenditure for this purpose does not exceed five hundred dollars.

Any person feeling himself aggrieved by any decision of the trustees of any school district in said city, may appeal to the board of education, whose decision or determination is declared to be binding and conclusive upon such trustees, until reversed by competent authority; and



out of the funds belonging to the state, shall be necessary to support all the common schools in said city, and to pay the compensation of the clerk of the said Board of Education ;" such amount in no case to exceed five times the amount of the last preceding state apportionment. This amount, so certified and reported by the Board of Education, together with the sum of three hundred dollars for contingent expenses, (unless the common council reduce the amount so certified and reported to an amount not less than four times the amount so apportioned by the state, which they are authorized to do,) is to be annually levied and raised by the common council, on the taxable property of the city ; and together with the sum apportioned by the state, to be paid over when collected to the city treasurer, who is required from time to time to disburse the same, upon the resolution of the Board of Education, duly certified by the president and City Superintendent. The apportionment of these funds is to be made by the board, in the same manner as the school moneys are apportioned in the several districts of the state.

Whenever the inhabitants of any of the districts signify, by vote, their intention to build a school-house, the Board of Education are required to fix the site of such house, and to determine the sum necessary to be raised for the purchase thereof and for building a school-house thereon—such sum in no case to exceed three thousand dollars—which they are to report to the common council, whose duty it is to levy and raise by tax upon the taxable inhabitants of such district, the sum so reported, or the amount to which they may reduce the same. When collected, the amount is to be paid over to the city treasurer and credited to the district ; and is payable by such treasurer to the trustees, on the resolution of the Board of Education, duly certified as aforesaid.

The Board of Education, exclusively, are required to audit all accounts and claims against any school district of the city, and payment of the same is required to be made directly to the claimants by the city treasurer, out of the moneys belonging to such district, upon a duly certified resolution of the board.

The names of the trustees and other officers of school

districts are, within ten days after their election, to be returned by the district clerk to the Board of Education.

The Board of Education are authorized to separate any portion of a school district in the city, annexed to or united with a portion of a district in any of the adjoining towns, without the consent of the Town Superintendent of the latter.

The Board of Education are authorized "to establish and cause to be kept, such number of schools in said city for the instruction of colored children, as they shall deem expedient," of which schools they are to possess all the power, and be subject to all the duties and responsibilities, of trustees of common schools in the town, so far as the same are applicable, and to pay the compensation of the teachers, of the said schools, and all the other expenses thereof, out of the moneys raised by tax for the support of common schools; and until such schools are provided, no tax for the support of common schools can be imposed upon the property of any colored inhabitant of said city. Whenever they determine to establish such schools, they are to divide the city into convenient districts for the accommodation of such children; to make an estimate of the expense of erecting a suitable school-house in each of the said districts; to determine the sites thereof respectively; and to report their doings to the common council, who, at their option are authorized to raise by a general tax on the city and on a separate warrant, such sum as shall be necessary to build a school-house in each of the said districts, or in as many of them as they may deem expedient, not exceeding in the aggregate the sum of five thousand dollars. In case of a refusal by the common council to raise such tax, the board of education are authorized to lease suitable rooms or buildings for the accommodation of such schools, or either of them, provided the annual expenditure for this purpose does not exceed five hundred dollars.

Any person feeling himself aggrieved by any decision of the trustees of any school district in said city, may appeal to the board of education, whose decision or determination is declared to be binding and conclusive upon such trustees, until reversed by competent authority; and

the board are authorized to prescribe the form and manner of proceeding in respect to such appeal.

**CITY OF SCHENECTADY.**

[Laws of 1829, Chap. 324.]

The amount of ~~moneys~~ allowed to the city of Schenectady, by the Superintendent of Common Schools, is required to be apportioned by the treasurer of the county of Schenectady, between the Schenectady Lancaster School Society, and such common school districts and parts of districts as now are, or hereafter may be, organized without the bounds of the compact part of the city of Schenectady, called the police; and in a ratio proportioned to the number of children over the age of five and under sixteen years, within such compact part, and the number of such children in such districts and parts of districts respectively, without such compact part.

The treasurer of the county of Schenectady is required to pay the amount thus apportioned to the Schenectady Lancaster School Society, to its treasurer, for the use of said society, and the amount thus apportioned to such school districts and parts of districts, to the commissioners of common schools for the several wards of the city of Schenectady. The commissioners are to distribute and pay to the trustees of such school districts and parts of districts, the amount so received by them from the county treasury, in proportion to the number of children residing in each, over the age of five and under that of sixteen years, as the same shall have appeared from the last annual report of the respective trustees.

The assessors of the several wards of the city are required, annually, in their respective wards, to take a census of the children between the ages of five and sixteen years, residing within the compact part of said city, and between the first day of May and the first day of October, in each year, to make and transmit a report of the same to the clerk of the county of Schenectady.

The reports required by law to be made by the trustees of the common school districts and parts of districts, without the bounds of the compact part of the city of Schenectady, to the commissioners of common schools, for the several wards of the said city, are required to be verified by the affidavit of the trustees.

The moneys received by the treasurer of the county of Schenectady, from taxes collected in said city, under the laws relative to common schools, are to be apportioned by him between such common school districts and parts of districts, without the bounds of the compact part of said city, and the Schenectady Lancaster School Society, in the ratio proportioned to the amount of the assessments of the real and personal estates of the taxable inhabitants residing in such districts and parts of districts, and the assessments of all real estate situate therein and owned by persons residing out of such districts and parts of districts, and the amounts of the assessments of the real and personal estates of all the taxable inhabitants of the city, after deducting thereout the aggregate of the assessments last mentioned.

The county treasurer is to pay the amount so apportioned to the Schenectady Lancaster School Society, to its treasurer, for the use of said society, and the amount apportioned to such school districts and parts of districts, to the commissioners of common schools for the several wards, which amounts so paid to the said commissioners, are to be distributed and paid by them in the manner herein before provided.

To enable the county treasurer to make the apportionment required by this act, the assessors of the several wards are, annually, within the time limited for taking the census therein mentioned, to make out and deliver to him an abstract from the assessment rolls of their respective wards, containing the names and the amounts of the assessments of the real and personal estates of each of the taxable inhabitants residing in the said school districts or parts of districts, together with the amount of the assessments of all real estate situate therein, and owned by persons residing out of such districts or parts of districts.

The commissioners of schools of the city are authorized and required to divide that portion of the territory of the first and second wards of the city, not comprised within the bounds of the police, into such number of school districts as they may deem convenient, and to alter and regulate such districts in the manner provided by the general school law.

The trustees of the Schenectady Lancaster School Society are required to make an annual report to the Superintendent of Common Schools, in such form as shall be prescribed by him, of the state and condition of the schools for whose benefit the school moneys shall have been applied in such city.

CITY OF TROY.

[Art. 7, Title 2, Chap. 18, Part 1 R. S. Laws of 1842, Chap. 286.]

The four first wards of the city of Troy form one school district, not subject to alteration by the commissioners of common schools for that city.

The common council of the city are annually, on the third Tuesday of May, to appoint not exceeding thirteen trustees, to manage the concerns of the school in such district, and to perform the duties of inspectors and trustees thereof, as required by law and the ordinances of the common council.

Every trustee, before he shall enter on the duties of his office, is required to take and subscribe an oath or affirmation, in the form prescribed in the constitution of the state, before the mayor or recorder, or one of the aldermen or justices of the city, and file the same in the office of the clerk of the city.

For refusal or neglect to file such oath or affirmation within fifteen days after he shall have received notice of his appointment, he forfeits the sum of ten dollars, to be recovered in the manner prescribed in the "Act to incorporate the city of Troy," passed April 12th, 1816.

The commissioners of common schools for the city are required to pay to the chamberlain of said city, such a portion of the school moneys to be distributed by them, as the district above designated may be entitled to receive, and the same shall be paid over by the chamberlain to the trustees of such district.

The common council of the city has power to raise a sum not exceeding five hundred dollars annually, by tax on the inhabitants of such district, for repairing the school-house therein, and defraying the expenses of the school; which tax shall be assessed and collected as the other taxes of the city are assessed and collected, and when collected, shall be paid to the chamberlain of the city.

In the execution of the powers which are vested in the common council of the city, the aldermen of the fifth and sixth wards are not to be considered as members of such council, nor be permitted to vote on any question that may arise therein, touching the concerns of such district or its school.

The trustees of such school have power to exempt from the payment of tuition money and other charges, all such scholars and the persons sending them to school, as they shall judge unable to bear the charge thereof; and to fix the sum which each person liable to pay for the same shall be compelled to pay, having regard to the ability of the person so liable; and to appoint a collector to collect such sums from the persons liable to pay the same. They are also authorized to appropriate the whole or any portion of the library money to the payment of teachers' wages, with the consent and approbation of the common council.

There is required to be annually elected, at the time and in the manner the other officers of the city are chosen, one commissioner of common schools in each of the wards of the city of Troy; and in each of the fifth and sixth wards, three inspectors of common schools for such wards.

A portion of the first, second and fifth wards of the city have also been erected into a separate district, by the common council, in pursuance of law—possessing all the rights and privileges, and subject to the same liabilities as the other school districts formed in the fifth and sixth wards of said city.

The common council are authorized, by the 16th and 17th sections of chap. 296 of the Laws of 1834, to establish one or more schools in the first school district, in addition to the school already established by law in the said district, and to purchase the necessary land, and to erect school-houses thereon; and when such school-houses shall be erected, and schools established therein, the same is declared to be under the control and supervision of the common council of said city; and the trustees to be annually appointed by the common council for school district number one, are to be trustees of such additional schools, and to possess all the powers in relation to such additional schools as they now possess in relation to the school

established in the said first school district; and when such additional schools are established, it is made the duty of the said trustees, under the direction of the common council, to apportion the common school moneys allotted to the first school district, among the several schools, in proportion, as nearly as may be, to the number of scholars instructed in each of the said schools, or in such other manner as shall be just and equal.

For the purpose of carrying these provisions into effect, the common council are authorized to levy and collect, by tax upon the estates, real and personal, of the freeholders and inhabitants and taxable property in the first, second, third and fourth wards, in the same manner that other taxes are levied and collected, a sum of money not exceeding two thousand dollars in any one year; or to defray the necessary expenses thereof from the general funds of said city.

CITY OF UTICA.

[Chap. 137, Laws of 1842. Chap. 131, Laws of 1844.]

The several common schools of this city are under the general supervision of a board of commissioners, six in number, two of whom are annually elected, and hold their offices for three years; any vacancy occurring in the board to be filled by appointment by the common council, for the unexpired term; and the common council possessing the power of removal for official misconduct, by a vote of two-thirds of the members.

The common council are required from time to time to raise by taxation on the taxable property of the city, in addition to the amount of school money now or hereafter apportioned or provided by law for common schools in said city, such sums as the board of commissioners shall certify to be necessary and proper "to purchase, lease or improve sites for school-houses: to build, purchase, lease, enlarge, alter, improve and repair school-houses and their out-houses and appurtenances; to purchase, exchange, improve and repair school apparatus, books, furniture and appendages; and to procure fuel and defray the contingent expenses of the common schools, the expenses of the district library of said city, and the contingent expenses of said board of commissioners, including the sa-

lary of the clerk of said board, and to meet any deficiency which shall occur in the payment of the wages of teachers of the said schools, after applying to the payment thereof the school moneys apportioned and provided in said city, and the tuition fees which shall be collected as hereinafter provided," provided such tax be not laid oftener than once in each year, and that the whole amount to be raised shall not in any one year exceed three thousand dollars. All moneys to be raised and all school moneys appropriated by law for the city are to be paid over to the city treasurer, and disbursed by him, on the order of the board of commissioners, duly certified by their chairman and clerk.

The board of commissioners are authorized and required.

"1. To establish and organize such and so many common schools in said city (including the common and free schools now existing therein) as they shall deem requisite and expedient, and to alter and discontinue the same :

"2. To purchase or hire school-houses, and to fence and improve them as they deem proper :

"3. Upon such lots or sites, and upon any sites now owned by said city, to build, enlarge, alter, improve and repair school-houses, out-houses and appurtenances, as they may deem advisable :

"4. To purchase, exchange, improve and repair school apparatus, books, furniture and appendages, and to provide fuel for the schools, and defray their contingent expenses and the expenses of the district library :

"5. To have the custody and safe keeping of the school-houses, out-houses, apparatus, books, furniture and appendages, and to see that the ordinances of the common council in relation thereto be observed :

"6. To contract with and employ all teachers in the common schools, and at their pleasure to remove them :

"7. To pay the wages of such teachers out of the school moneys which shall be appropriated and provided in the said city, so far as the same shall be sufficient, and the residue thereof from the tuition fees they shall be authorized to collect and receive as herein provided. And in case the said school moneys and tuition fees shall be insufficient to pay such wages, then to pay the deficiency



out of the moneys to be raised by the common council of said city, as above mentioned.

"8. To fix the rate of tuition fees in said schools, at a sum not exceeding two dollars per term, which shall be a period not less than eleven weeks, and to designate a person or persons, to whom the same may be paid, previous to the issuing a warrant for the collection thereof; and to exempt from the payment of the whole or any part of the tuition fees, such persons as they may deem entitled to such exemption, for indigence, or any other sufficient cause, and cause a list of the persons so exempted, with the extent of their exemption, to be kept by the clerk of the board:

"9. To defray the necessary contingencies of the board, including an annual salary to the clerk, which shall not exceed one hundred dollars, provided that the account of such expenses shall first be audited and allowed by the common council:

"10. After the end of each school term to make out a rate-bill, containing the name of each person liable to pay tuition fees, who shall not have paid them prior to the making out of such rate-bill, to the person or persons designated by the board for that purpose, and the amount for which such person is liable, adding thereto a sum not exceeding five cents on each dollar of the sum due for collectors' fees, and to annex to such rate-bill a warrant for the collection thereof.

"11. To deliver such rate-bill, with the warrant annexed, to one of the collectors of taxes of said city, who shall execute the same, in like manner, and with like effect with the other warrants for the collection of taxes placed in his hands, or in their discretion to deliver the same to a collector, to be appointed by said board of commissioners, who shall, if required by said board, execute to said commissioners, in their corporate capacity, a bond, with one or more sureties, to be approved by said commissioners, or a majority of them, which bond, as to its penalty and conditions, shall be the same as is by law required to be executed by the collectors of school districts; and the said board of commissioners shall have the same power and authority in regard to said bond and the collection thereof, as the trustees of school districts have

by law in regard to the bonds given by collectors of school districts; and the said collector shall have the same power in the execution of said warrant, that the collectors of taxes of said city have by virtue of this act."

"12. To have in all respects the superintendence, supervision and management of the common schools in said city; and from time to time to adopt, alter, modify and repeal, as they may deem expedient, rules and regulations for their organization, government and instruction, for the reception of pupils, and their transfer from one school to another, and generally, for the promotion of their good order, prosperity and public utility:

"13. Whenever in the opinion of the board it may be advisable to sell any of the school-houses, lots or sites, or any of the school property now or hereafter belonging to the city, to report the same to the common council:

"14. To prepare and report to the common council such ordinances and regulations as may be necessary or proper for the protection, safe-keeping, care and preservation of school-houses, lots, sites and appurtenances, and all the property belonging to the city, connected with, or appertaining to the schools, and to suggest proper penalties for the violation of such ordinances and regulations; and annually to determine and certify to the said common council, the sums in their opinion necessary or proper to be raised for the purchase, lease or improvement of sites for school-houses; the building, purchase, lease, enlargement, alteration, improvement and repair of school-houses and their out-houses and appurtenances; the purchase, exchange, improvement and repair of school apparatus, books, furniture and appendages; the procurement of fuel, the contingent expenses of the common schools and the expenses of the district library of the city, specifying the sums required for each:

"15. To unite with the commissioners [Town Superintendents] of any adjoining town, and form, regulate and alter any district out of any portion of the said city and such town, whenever they shall deem it necessary and proper to do so: in which case so far as such district or districts are concerned, said board shall, during the existence of such districts, have the same power and du

ties which the commissioners [Town Superintendents] of towns have :

" 16. Between the first day of July and the first day of August in each year to make and transmit to the county clerk a report in writing, setting forth the number of districts in the city separately set off, an account and description of all the common schools kept in the said city during the preceding year, and the time they have severally been taught, the number of children taught in the said schools respectively, and the number between 5 and 16 residing in the city on the first day of January preceding, the amount of school moneys received by the treasurer of said city during the preceding year, distinguishing the amount received from the county treasurer, from the town collector, and from any other and what source ; the manner in which such moneys have been expended, and whether any and what part remains unexpended, and for what cause, the amount of money received for tuition fees during the year, and the amount paid for teachers' wages in addition to the public moneys, with such other information as the Superintendent of Common Schools may from time to time require."

For the purpose of making out rate-bills, and collecting the amounts not collectable on the warrants delivered to the collector, the board of commissioners are vested with the powers conferred by the general law on trustees of school districts. In all their expenditures and contracts they are to have reference to the funds subject to their order during the current year, for the particular expenditure in question. They are also to perform all the duties, and are subject to all the liabilities of trustees of the district library in said city ; to provide a room, and all necessary furniture for such library, appoint a librarian, purchase books, exchange or cause to be repaired damaged books ; sell any books they may deem useless or of improper character, and apply the proceeds to the purchase of other books for the said library.

Fifteen days before the annual election for city officers in each year, the board are required to report to the common council, the amount of moneys received and expended by them, for each and every object of expenditure, which

statement is to be published by the common council ten days prior to such election.

The board are subject to the rules and regulations from time to time prescribed by the Superintendent of Common Schools, so far as the same are applicable under the special provisions of the act by which they are constituted.

The common council are authorized and required to pass such ordinances and regulations as the board of commissioners may report as necessary and proper for the protection, safe keeping, care and preservation of the school-houses, lots, sites and appurtenances, and all the necessary property belonging to or connected with the schools. They are also to sell upon such terms as they may deem advisable, such of the school-houses, lots or sites, or any of the school property belonging to the city, as the board of commissioners shall report to them for that purpose; and the proceeds of such sale are to be paid over to the treasurer of the city, subject to the order of the board, and to be expended by the latter in the purchase, leasing, repairs or improvements of other school-houses, lots, school furniture, apparatus or appurtenances.

The title to the school-houses, sites, lots, furniture, books, apparatus and appurtenances, and all the other school property, is declared to be vested in the city; and while used or appropriated for school purposes is not liable to levy or sale under any warrant or execution, nor to taxation or assessment for any purpose; and the city in its corporate capacity is authorized to take, hold and dispose of any real or personal estate, transferred to it by gift, grant, bequest or devise, for the use of the common schools, either directly or to any other person in trust for said schools.

#### TOWN AND VILLAGE OF WILLIAMSBURGH.

[Chap. 162, Laws of 1842.]

There are three permanent school districts in this town, established by law, corresponding in extent and boundaries, with the three assessment districts; the annual meetings in each of which are required to be held on the second Monday of May in each year. The trustees of each district are required annually, at least three weeks before such annual meeting, to "prepare an estimate of the



amount which they shall deem necessary to pay the debts of such district, and for the support of common schools therein for the ensuing year, exclusive of the moneys which they shall be entitled to receive from the Town Superintendent, and including the sums required for the purchase of necessary furniture, apparatus and books, and for contingent expenses;" to publish such estimate in connection with their notice for the annual meeting, and to lay the same before the inhabitants when assembled, who are required to vote upon each item separately. The trustees are then to deliver a certified copy of the vote, specifying the item and the aggregate amount directed to be raised, to the supervisor of the town, who is required to lay the same before the board of supervisors of the county of Kings, at their next meeting thereafter. Such board are required annually upon the receipt of such certificate, to add to the sum of money to be raised in each assessment district of the town of Williamsburgh, for town purposes, the amount so directed to be raised for school purposes. This amount when collected is to be paid over to the trustees or one of them of the respective districts, to be applied to the purposes for which the same was raised.

When any amount is voted in either of the districts, for the purchase of a site, and the erection or repair of a school-house, a certified copy of such resolution is required to be transmitted to the clerk of the board of supervisors who is required to lay the same before the board: by whom such amount is to be included in their next annual tax list for said district, and to be collected, paid over and applied in the same manner as above specified.

## STATE NORMAL SCHOOL.

By chap. 311, Laws of 1844, the sum of \$9,600 is appropriated for the first year, and \$10,000 annually for five years thereafter, and until otherwise directed by law, for the establishment and support of a "NORMAL SCHOOL for the instruction and practice of teachers of Common Schools in the science of education and in the art of teaching." This institution is required to be located in the county of Albany; and is to be under the supervision, management and direction of the Superintendent of Common Schools and the Regents of the University, who are authorized and required "from time to time to make all needful rules and regulations; to fix the number and compensation of teachers and others to be employed therein; to prescribe the preliminary examination, and the terms and conditions on which pupils shall be received and instructed therein—the number of pupils from the respective cities and counties, conforming as nearly as may be to the ratio of population—to fix the location of the said school, and the terms and conditions on which the grounds and buildings therefor shall be rented, if the same shall not be provided by the corporation of the city of Albany; and to provide in all things for the good government and management of the said school." They are required to appoint a board, consisting of five persons, including the Superintendent of Common Schools, who are to constitute an executive committee for the care, management and government of the school, under the rules prescribed by the Board of Regents. Such executive committee are to make full and detailed reports from time to time to the Superintendent and Regents, and among other things to recommend such rules and regulations as they may deem proper for said schools.

The Superintendent and Regents are required annually to transmit to the legislature an account of their proceedings and expenditures, together with a detailed report from the executive committee, relating to the progress, condition and prospects of the school.

*Executive Committee.*—HON. SAMUEL YOUNG, State Superintendent, REV. ALONZO POTTER, D. D., REV. WM. H. CAMPBELL, GIDEON HAWLEY and FRANCIS DWIGHT, Esqrs.









